

Tobacco Wars

Johann van Loggerenberg

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Tafelberg

I dedicate this book to my wife, Nicole. As always, thank you for the many hours of support, patience, advice and guidance, for listening and, above all, your unconditional love. By the time this book is published, our baby girl, Gabriella, will be with us. For you too, my love.

I would also like to dedicate this book to the countless honest and hardworking law enforcement and South African Revenue Service officials engaged in the incredibly difficult and risky task of combating crime in the cigarette industry. The reason why our old tobacco investigation was named after the honey badger was that, although small in stature, it is an animal known for its toughness and determination in the face of adversity. I hope that this book may help you to pick up where we left off, never to give up and ultimately to ensure that justice is served and that truth triumphs.

Preface

I worked for the South African Revenue Service (SARS) for close to sixteen years. Before that I was a policeman investigating organised crime. During my time in the civil service, I came to understand the dark side of the tobacco trade in southern Africa and elsewhere. By the time I left SARS in early 2015, I was overseeing over eighty different projects, of which one focused on the cigarette market in South Africa and our neighbouring states. This project was the main reason why I came to understand the trade a little better than most. Whereas I am limited by law in providing information about taxpayers and SARS operations which are not in the public domain, this has not been a hindrance for me in telling this story. Everything I reveal in this book is publicly available and verifiable, except where I say otherwise. Much of what I tell I was able to confirm after I had left SARS. In some instances, I protect the identities of people by agreement or for fear of their and their loved ones' safety. In some chapters, as I shall indicate, I have also used some fictional licence to give the reader a sense of the stories I was told, while also protecting the identities of some of those involved. These stories are denoted by their italicised titles. Some of what I share in this book has to some extent been simplified. To include all entities and people involved in the entire value chain, and all the intricacies and goings-on in the tobacco trade, in a single book would be an impossibility. There are the growers, traders, leaf processors, markets, transporters, clearing agents, warehousing and logistical agents, to name a few. That some of them are also involved in scams and dirty tricks is not in any doubt, but for the sake of simplicity I limit the focus of this story to the primary role-players in the sector.

I have spent many hours finding old court records, interviewing people, searching out evidence and researching documents and reports available in the

public domain, in order to ensure that I do not breach my oath of secrecy. For every tale I tell, I have documentary evidence, records, emails, recordings, text exchanges and other data whose origins I explain in this book. Some aspects that I would have been unable to write about on account of the legal limitations imposed on me as a former SARS official no longer applied to me because I was able to obtain access to certain records, documents and information in the public domain as a civilian after having resigned from SARS in 2015. There is also some precedence for publishing information about SARS and its investigations. Since 2012, SARS has used the services of external authors to study real cases, interview SARS officials and then write them up for public dissemination as case studies using pseudonyms. SARS has also collaborated with academic institutions over the years and allowed them to publish studies and books about SARS and its inner workings. Just to be sure, I had lawyers check the contents.

For ease of reading I have limited the number of my footnotes but include at the back of the book a list of references and further reading for those interested in the topic. I am no expert in the field of cigarette-making, and don't pass myself off as such. Most of what the reader will learn from reading this book came to my attention in some instances by chance, in the course of my duties and thereafter. The information contained here gives an inside glimpse into the murky world that lurks beneath this scandal-infested industry. I believe it is in the public interest to know what I came to discover. Though none of our law enforcement agencies have ever acted upon the evidence I present here of serious offences, it is in the interest of justice that these stories be exposed.

Johann van Loggerenberg

Foreword

In the pages that follow, Johann van Loggerenberg takes us through one of our darkest days since the dawn of democracy. Coinciding as it does with efforts to rebuild SARS, *Tobacco Wars* is a timely and essential story that should be prescribed reading material for lawmakers, civil servants, regulators, civil society organisations and the media, as well as alert citizens concerned with the protection of key institutions of the state against greedy and corrupt mercenaries for profit.

What Van Loggerenberg tells us in these pages is more than just the story of dedicated civil servants at SARS falling victim to unbridled greed; it is also a lesson in how we as a nation failed to properly exercise our hard-won democratic right to safeguard that which we should hold precious and dear.

As he did in his previous two books, *Rogue*, and *Death and Taxes*, Van Loggerenberg has in *Tobacco Wars* told how a professional, efficient and progressive tax collection agency was gutted by determined and unaccountable officials.

Not only was the institution hollowed out, families were destabilised, and the lives and livelihoods of hardworking and honest civil servants were destroyed. Yet good men and women have refused to just sit by and give up. Hence you are reading this book, which tells the story of capture and plunder, courtesy of one of the bravest former dedicated civil servants.

The story of the illicit tobacco trade is intrinsically linked to, and is the extension of, the story of state capture. The treasonous crime of state capture could not have succeeded without the hollowing out of SARS. In fact, SARS was for a long time the only government agency that stood in the way of the criminal gangs. In order for the crime to flourish, SARS had to go the way of

the South African Police Service. And flourish the crime did.

The success of this campaign of crime over the past ten years, in which elected public office bearers commandeered civil servants to tirelessly work for the private profit of their friends and underworld paymasters, starkly shows itself in the increasing taxes ordinary people are forced to endure daily.

In the 2019 national budget, Finance Minister Tito Mboweni raised taxes on essentials such as bread, flour and fuel, in order to pay for the corruption of state capture. This Mboweni did in order to find about R12 billion more in taxes to pay for the corruption at Eskom and elsewhere in government. The 2018 jump in the VAT rate to 15% of the price of goods can and must also be directly linked to SAR's inability to collect all taxes due on tobacco and organised commercial crimes.

For the next two to four years, the country will have no choice but to raise taxes to pay for the ever-increasing funding needs of a poorly performing economy. An economy riddled with crime, such as ours, will tap the already burdened taxpayer. That will be the case until two things happen: the economy starts generating more taxes and the investigative and enforcement capacity of SARS is completely rebuilt.

A 2018 study by the Tobacco Institute of Southern Africa shows that illicit tobacco costs the country about R8–R9 billion in unpaid taxes every year. Of course, as Van Loggerenberg shows, tax-paying tobacco companies themselves are not the most innocent bystanders in the hollowing out of SARS. Their strong objections to raised taxes on their products should be seen for what they really are: a self-serving agenda to maximise the profits of their members while letting them off the monetary costs of looking after the healthcare of customers, who become yet another burden of the heavily taxed public.

Which does not change the ugly reality and cost of the illicit tobacco trade on the nation. Nor is this to say that other organised commercial crimes are less important. In such an impoverished country as South Africa, unregulated and untaxed cigarettes place an additional burden of care on the already collapsing public healthcare sector, which hits the poor particularly hard.

To reverse this rot, and to begin to deliver on the South African promise for the most vulnerable of our compatriots, institutions like SARS have to be built anew. What South Africans should care most about is safeguarding the institutions and the civil servants whose dedication to the cause of a

progressive nation is essential to delivering a just and more equitable future.

Readers of this book will do well to pass it on to younger generations of South Africans who must also take it upon themselves to ensure public institutions thrive in order to deliver on the democratic dividend for which so many have sacrificed so much.

Sikonathi Mantshantsha

Deputy editor: *Financial Mail*

Prologue

It was early in December 2013.¹ The small boardroom at the South African Revenue Service (SARS) head office in Brooklyn, Tshwane was littered with link charts, files and empty coffee cups. We had been scouring records of tobacco importations for hours, looking for clues and direction to give impetus to our investigations into the tobacco industry. It had been a long day, people were tired, but we were onto something big. Around me at the small table sat Pete, the head of the Central Projects Unit; Moods, the manager of the Tactical Intervention Unit; Portia, who oversaw the National Projects Unit; Thabo, who accounted for the Evidence Management and Technical Support Unit; and Guillam, who coordinated the High-Risk Investigation Unit. All these units and officials were deeply involved in different parts of our investigation, codenamed Project Honey Badger.

Those of us sitting around the table in the messy boardroom had an overall picture of what was going on. We had import and export statistics for the preceding months, which we had received from the Excise division; weekly stock reports of all tobacco manufacturers, which were checked by Moods's unit; weekly reports of the numbers of trucks that had entered and exited all manufacturing plants, which were collected by Guillam's small unit; and financial information collected by Portia's and Pete's people. Somewhere hidden in this pile of numbers, tables, graphs and data was the secret to what I believed to be the largest illicit manufacturing operation in the country. And we were determined to bust them.

Moods suddenly became quite animated and I immediately realised he had found what we were looking for. He smiled and shifted the piece of paper towards me. This was it. We had them. Moods had found records of very high volumes of imports of tobacco into South Africa by a company none of us had

ever heard of before. This made it very odd to start with. Why would an unknown company be importing so many containers of tobacco into South Africa through the Cape Town harbour? We checked the export records and found that the very same company, SureSmoke (Pty) Ltd (not its real name), was importing these volumes, and then exporting them to Lesotho to a company, Smoke&Mirrors (Pty) Ltd, which was also unknown to any of us. We all knew that there was no significant tobacco production plant in Lesotho, so why on earth would Smoke&Mirrors be importing these huge volumes? It didn't make sense. Immediately Moods's team placed detention notices on fifteen imported containers, each containing about 12 tons of tobacco, pending further investigation.

That same evening, Jack and Nelson, both seasoned investigators of the Tactical Intervention Unit, were on their way to Lesotho. Moods picked up the phone and gave SureSmoke's director, Hennie du Preez, a call. They wanted to meet and ask him a few questions.

Late the next day, Moods called me. 'JvL, we've got them.' Moods gave me the lowdown. 'I've had a long discussion with Du Preez. He spilt the beans almost immediately.' I listened. Moods was very experienced and could get to the bottom of a scheme quickly. 'Du Preez explained to us that he was approached by ABC Tobacco Manufacturers long ago. They knew he still had SureSmoke, it was still registered at SARS, had a bonded warehouse licence and an import code with us, so they wanted to use SureSmoke as a front. SureSmoke would be off radar with us, because it had been on record for so many years. They paid him fifty grand for this – in cash. He's given us the whole story. We are busy taking down his affidavit now.'

I told Moods to check if there were any more imports of SureSmoke on the way to South Africa. Within minutes Moods called back. 'There are another fifteen containers in the harbour as we speak. Each has just over 12 tons of tobacco. To be precise, 12,210 kilograms each. We've just placed detention notices on all of them too. They're sealed and locked. We are watching them.' By using the powers of SARS to detain imported containers, Moods would force the owner of the goods to come forth and own up to the tobacco. ABC Tobacco Manufacturers were now in a bit of a bind. If they wanted their tobacco, they'd have to show their hand. It became a waiting game.

There was a lot of tobacco involved: 183 tons of tobacco to be precise, or roughly 183 million potential cigarettes. Considering that the excise value of a pack of smokes was about R15 at the time, the whole consignment would have delivered about R137 million in excise duties to the fiscus. It was a remarkable bust.

The following day, Moods called again. ‘Just got a call from Nelson. They’re back from Lesotho.’ I listened. ‘They’ve unravelled the whole scheme. We’ve got ABC Tobacco: red-handed. They’ve been doing this for a long time. It’s game over for them.’

Later that same day, Moods, Nelson and Jack met me and explained what they had discovered in Lesotho. ‘We drove straight to the address on the bill of entry for Smoke&Mirrors,’ said Nelson. ‘When we got there, it was clear this wasn’t a tobacco plant. The Lesotho Revenue Authority guys helped us tremendously. They helped us track the director of Smoke&Mirrors. He was very cooperative. He told us that he had met with the directors of ABC Tobacco months ago in Sandton. They basically asked to use Smoke&Mirrors for their imports. Because Smoke&Mirrors had stopped trading several years ago, it didn’t bother to deregister there. A former Lesotho customs officer who still had an official stamp was paid to stamp the documents purporting to show that the tobacco went into Lesotho. It never did.’

So this is how it worked. ABC Tobacco used SureSmoke in South Africa to pretend that it was importing tobacco through South Africa, destined for Smoke&Mirrors in Lesotho. The tobacco would come in through the harbour in 40-foot containers, be loaded onto trucks, supposedly on the way to Lesotho but would never reach there. Instead, the trucks would proceed to another warehouse and offload the tobacco at ABC Tobacco. Export documents would be stamped by the former Lesotho customs officer, claiming that the tobacco had entered Lesotho, though it hadn’t. It was all pure fraud.

Now, Project Honey Badger sat on ABC Tobacco’s 183 tons of tobacco in the harbour while ABC Tobacco held back and considered what to do. ABC Tobacco was in trouble. They ordered the tobacco from a supplier in South America on credit. The supplier wanted its money and didn’t care much for what was unfolding in South Africa. ABC Tobacco was getting squeezed from all sides. They had to pay for the tobacco but couldn’t claim it from SARS because then they’d have to admit it was theirs. I told Moods and the others

that we should wait. Soon enough ABC Tobacco would have to show their hand. So we waited.

In the meantime, Project Honey Badger was in full swing. We were busy preparing criminal charges, carrying out in-depth audits of manufacturers, drawing up lifestyle audit questionnaires, arranging verifications and preparing the paperwork to cancel warehouse licences if those found wanting did not come clean. The entire cigarette manufacturing world in South Africa was abuzz. Some began to contact us to make arrangements to put their tax and excise affairs in order. Moods's team was busy cracking cases all over the country. Our preliminary figures from the Risk and Strategy division showed that excise payments had increased significantly since Project Honey Badger began to gain traction, showing an increase over the same period of almost 25 percent compared with prior years.² Honey Badger looked like it was beginning to have the desired effect.

On 13 May 2014, Moods walked into my office. He had just concluded the affidavit of Du Preez, who had given him a pile of documents and more details of what had happened. He held a piece of paper in his hands, and he looked rather glum. I frowned and asked him what was wrong. He just shook his head and put the piece of paper on my desk. I picked it up and studied it. It was a document, signed long ago, in which Du Preez gave permission to a third party to sign documents and conduct transactions on behalf of SureSmoke. It was signed by a woman whom I had just recently started dating. I had no idea of the extent of her involvement. I reached for my smartphone and sent her a message: 'I'm done.'

Days later, on 28 May 2014, all hell broke loose. I asked SARS to place me on special leave and walked out of my office, for the last time, as it turned out. In November I was suspended very soon after Tom Moyane had taken the helm at SARS. In December 2014 more senior SARS officials were suspended. By 2015, Project Honey Badger existed in name only. The five units and other parts of SARS that had collaborated to take on the tobacco industry had all been decimated or disbanded. It was game over.

Years later I spoke to one of the directors of ABC Tobacco. He said to me: 'Ja, you had us there. We were in trouble ... We were very lucky because of

what happened at SARS. We got away with it, sure.' He chuckled.

This episode sums up for me many of the themes and patterns that will unfold in this book. In it, you will meet many of the companies and people involved in the South African tobacco industry, and learn about the shenanigans in the tobacco trade, which have never been revealed publicly before. You will learn how the different sides began to come to blows, in many instances using the dirtiest of tricks imaginable. And you will discover how a handful of state officials and law enforcement agencies were captured and used to advance the commercial agendas of some players in the industry, at the expense of others. You will come to know the characters involved in these wars: they can variously be described as shrewd, conniving, double-dealing, criminal, colourful; a mixture of chancers, mavericks, rascals and opportunists. You will come to understand how state institutions and officials, politicians, organised criminals, industry players and big money all came to be so enmeshed that the tobacco industry can fairly claim to be one of the murkiest, corrupt and venal in southern Africa.

The independent tobacco manufacturer Yusuf Kajee once said in 2010: 'There's no pussy-footing around this: organised crime is ugly and illicit trade fuels crime with guns, drugs and hijackings.'³ The very next year, Kajee's warnings proved true. In January 2011, a police officer, Johan Nortje, was killed in his driveway on a Monday morning. He had been a key investigator in an operation with SARS codenamed Duty Calls, which had netted over R120 million of seized contraband in Durban. Two men were seen running away from scene but were never arrested or convicted. The murder remains unsolved. In the weeks before Nortje's murder, there had been two other attempts to kill customs officials in Durban.

In the same year, SARS spokesperson Adrian Lackay told the media, 'Customs officials are being targeted by smuggling syndicates. We have decided that we do not wish to disclose too much information, as doing so might well increase the risk that our officials are facing. Late last year, a SARS official in Durban was shot and seriously wounded. This was the second time he had been attacked. There have been other incidents too. We believe that our officials are under threat.'⁴

In 2011, Glenn Agliotti, notorious for his role in the killing of mining magnate Brett Kebble, and for bringing down his friend, former police

commissioner Jackie Selebi, in a corruption case admitted to smuggling cigarettes. Agliotti seems to have been involved in the cigarette game for some time, because in 2006 one of his ‘associates’, Anthony Dormehl, stated under oath that he was asked by Agliotti to organise storage space for four incoming containers of untaxed Marlboro cigarettes. He said that Agliotti used to call him with instructions as to who should pick up the contraband. Agliotti was still at it in 2014, meeting two people in the trade and proposing all sorts of hare-brained schemes to smuggle tobacco.⁵ In November 2016, someone arranged a meeting, where I found Agliotti, who suggested I ‘front’ for him and another person to open up a tobacco manufacturing plant in South Africa. I laughed.⁶

In October 2014, a van belonging to a tobacco manufacturer was hijacked at Sebenza on the East Rand. It was one of many such incidents reported in this year. In December, a hijacking led to the death of a bystander in Moreleta Park, during a shooting between the hijackers and police. In May 2015, the media reported that an underworld war had broken out between three gangs, one from Johannesburg and two from Cape Town, involving control of the multibillion-rand industries of illegal cigarettes and drugs. At least six people were murdered in Cape Town in the spate of this battle. In 2016, a driver of one of cigarette manufacturer Carnilinx’s trucks, en route to the Eastern Cape, was shot through the face in a hijacking attempt. In February 2017, a well-known debt collector and former nightclub bouncer, who reportedly had links to the illegal cigarette trade, Raymond ‘Razor’ Barras, was shot in the head and chest and killed while sitting in his car in his driveway at home.⁷ In January 2018, eight hijackers posing as police officers robbed a truck transporting tobacco products in Mitchells Plain outside Cape Town.

It also came to light in 2019 that one tobacco grouping had allegedly used ‘gang networks in Ryger Park to carry out a (failed) assassination’ of tobacco-whistleblower Luis Pestana, in an incident where his bodyguard, Gerard Strydom, was shot and wounded.⁸ As recently as January 2019, it emerged in an official report compiled by a Western Cape police intelligence officer that a ‘hit’ (assassination) was ordered on an employee of Carnilinx, controversial strongman and self-confessed killer Mikey Schultz. The officer thought it important and serious enough to report this and warn Schultz of the impending danger to his life. Around this same time, a whistleblower and his wife were reported to have received threats to their safety after exposing the

controversial findings from research conducted on behalf of the big tobacco companies.

The fact of the matter is that the tobacco business is as dirty and nasty as it is dangerous.

PART I

THE BATTLEFIELD

The tobacco industry: imagine a pizza

In early 2017 I was invited to meet a group of students in the School of Economics at the University of Cape Town and engage with them in an informal discussion of the tobacco industry in South Africa. The invitation came from the professor who has been heading their research into the tobacco sector, Corné van Walbeek, whom I regard highly. He is one of the few academics in South Africa who truly understand the key dynamics in the industry and is probably the foremost expert on the tobacco sector in southern Africa, even if much of what he has published does not necessarily win the agreement or approval of the major players in the industry.

Facing the group of eager and bright students, I started off by using an analogy that best describes for me how the tobacco sector is composed and how it functions. ‘Imagine a pizza’, I began, ‘one large pizza.’ Each slice of the pizza represents the market share of the various role-players in the industry. As I made clear, my focus was only on the cigarette component of the tobacco industry, whose products also extend to cigars, cigarillos, snuff, chewing tobacco, tobacco for pipes or self-rolled cigarettes, or fancy contraptions like the ‘hubbly bubbly’, and even insect repellents. But the biggest game is in cigarettes.

How big the ‘pizza’ is overall is difficult to quantify. In 2012, it was estimated that approximately 7.7 million South Africans smoked about 11.4 cigarettes per day. That amounts to almost 880 million cigarettes each day or over 32 billion per annum. The annual revenue in 2012 was thought to be around R22 billion, with an additional R8 billion attributed to illicit activities. In that year, BATSA, the largest manufacturer and distributor, commanding the biggest slice of the ‘pizza’, reportedly employed about 14,000 people in South Africa and relied on over 150,000 retailers countrywide to sell its

products.

The students listening to me at UCT were all in their twenties, and given the dramatic changes that have taken place in the tobacco industry over years, I took them back in time to when I was a young boy. This was the golden era for the big-name tobacco manufacturers, the makers of brands like Marlboro, Benson & Hedges, Dunhill, Rothmans, Winston, Camel, Peter Stuyvesant and Kent. They were the only players in the marketplace, and really had only themselves to contend with. The social and health problems we nowadays associate with smoking were simply unknown or else disregarded, and there were no restrictions on where you could or could not smoke. People regularly lit cigarettes in aeroplanes and in restaurants. Smoking also had a certain cachet, or so the advertisers would have one believe. I told the students how, without fail, one or other well-known cigarette brand would feature in lengthy advertisements shown at the cinema. These were almost a standard feature before the main movie would start. There was either the rough-and-tumble adventure man, who had just finished a cross-country race through the jungle in his hardy four-by-four vehicle, crossing muddy terrain and chopping down trees to build bridges across rivers, and at the end of it all he would settle down for a well-deserved cigarette. Alternatively, there were the cowboys, rustling cattle all day, chasing an errant cow or pulling a calf from a pit, who ended up around the campfire, lighting their cigarette with a burning twig. The adverts I enjoyed most played out on the Swiss Alps, with sportive young men and women criss-crossing the slopes on their skis, ending the day's play before a log-cabin fireplace with a well-deserved cigarette. The message was clear: the tough guys and beautiful people who enjoyed all the pleasures of this world smoked cigarettes of a particular kind.

Back in the 1980s and 1990s, these brands and their manufacturers would have been easy to identify. Considerably more than two-thirds of our 'pizza' would have belonged to them. Of this the lion's share was held by British American Tobacco, while the only other significant players at the time, though smaller in market share, were Philip Morris International, Imperial Tobacco Group and RJ Reynolds Tobacco Company (which became Japan Tobacco International in 1999). The remaining one-third of the pizza belonged to low-key informal and formal importers and traders and a few groups that were involved in smuggling operations and counterfeiting. Smuggling operations arguably benefited the big companies in the sense that it was their own

products that were being smuggled in and sold on. So this was not such a great concern for them at the time. Their biggest bugbear was the counterfeiters, who made copies of the famous brands and sold these off as if they were the real thing. As the counterfeiters used cheaper or smuggled tobacco, paid low wages and didn't have the huge costs of the big companies, they represented a big threat to the established players. Needless to say, the latter expected the state's law enforcement agencies to deal with the counterfeiting.

By far the largest of what I call the 'big boys' was BAT South Africa. Its origins lie in a small company started by the Afrikaner entrepreneur Anton Rupert in the 1940s, which later became known as Rembrandt. By 1956 the company had listed on the Johannesburg Stock Exchange and by 1961 it was selling cigarettes in 120 countries. In 1972 Rothmans International, which represented Rembrandt's non-South African tobacco interests, was listed on the London Stock Exchange. In the late 1990s Rembrandt sold off Rothmans International to British American Tobacco plc (BAT) in the United Kingdom, then considered to be the world's second largest cigarette producer. Out of this merger was born BAT South Africa (BATSA). To give an indication of the size of BATSA, in 2012 the tobacco manufacturer was second only to BHP Billiton, the largest listed company on the Johannesburg Stock Exchange in terms of market capitalisation. (Market capitalisation is the total market value of a publicly listed company's outstanding shares.) By 2015 it had overtaken BHP Billiton and by 2016 it had grown its market capitalisation to R1.5 trillion. In effect, it was richer than the South African government. BATSA is without doubt the biggest and most influential player in the South African tobacco market.

BATSA's closest formal rivals are three in number. The one is Philip Morris South Africa, whose parent company, Philip Morris International, with its famous brands of Marlboro and Chesterfield, held for many years the number one position as the world's leading tobacco manufacturer. Philip Morris SA was re-established in South Africa in 2003. The second is Imperial Tobacco with its famous brands like Gauloises and Embassy. The third rival is JTISA, whose parent company, Japan Tobacco International, was formed after incorporating with the US multinational RJ Reynolds in 1999. JTISA is a late entrant to the South African market, having been established here in 2007. Its best-known brands are Camel, Benson & Hedges, and Silk.

To represent, protect and advance their common interests, the large, established tobacco manufacturers and growers combined to form the Tobacco Institute of Southern Africa (TISA) in 1991. Effectively, this means that TISA was the only organisation of manufacturers and other role-players in the tobacco industry in South Africa at that point. At the time of writing, TISA consists of a number of companies and groupings, including British American Tobacco South Africa (BATSA), Alliance One International, JTI South Africa (JTISA), Philip Morris South Africa, Imperial Tobacco Southern Africa, Universal Leaf South Africa (ULSA), Limpopo Tobacco Processors, Tobacco Traders, Clippa Sales South Africa, and OTP Distributors. Together, in particular with reference to the manufacturers BATSA, JTISA, Philip Morris SA and Imperial Tobacco, they bring with them some serious money and clout. As a lobby group and collective, they represent the biggest manufacturers and distributors of tobacco products and cigarettes in South Africa. In other words, TISA is the big boys' club.

TISA represents not only big money, but old money. What I mean is that most of their members have been in the game locally and internationally for many years, during which they increased their own market shares worldwide, and grew into multinationals listed on stock exchanges worldwide, with complex business structures. They were big contributors towards developing economies from a tax perspective while simultaneously being rooted in developed economies and were generally seen as the good guys who created jobs, contributed towards the economy and could do no wrong. Where these companies are listed on stock exchanges, you'll find pension and retirement funds, investment houses and even government investment institutions investing heavily in their shares. These dynamics not only give the perception of respectability, but also provide power, influence and leverage. They make their directors, senior managers and representatives important people who can pick up a phone and call a meeting to raise one or other issue with senior government officials and politicians. Indirectly, without it ever being said overtly, it is always understood that if they are under any kind of threat, this will have a massive impact on jobs, tax revenues for government and their own shares on various stock exchanges around the world, which in turn will affect pension funds, investment houses and, ultimately, the country's economy. They are not to be trifled with or easily gainsaid.

From the early 1990s the tobacco manufacturers began to face a number

of unprecedented challenges that started to subvert their dominance and eat away at their profits.

For one thing, proportionate to population growth, the number of smokers in South Africa started to decline. In 1993, the Tobacco Products Control Act was introduced which required that health warnings had to be prominently displayed on cigarette packs and advertising material. Smoking on public transport was also banned. Around this time, too, government taxes on tobacco products started increasing significantly. The average tax on tobacco products in the mid-1990s was around 30 percent of its sold value and by the end of 1997 this had increased to 50 percent. Simply put, it became more expensive to smoke. In 2000, South Africa became one of the first countries in the world to ban smoking in public places by means of the Tobacco Products Control Amendment Act. This law prohibited smoking in restaurants, shopping malls and public buildings, and limited smoking to areas where there were dedicated enclosed smoking rooms. Advertising and sponsoring of public events were also banned. It is estimated that these measures alone led to a decrease in the number of active smokers to around 25 percent of all adults. By 2003, it was estimated that the number of smokers in South Africa had declined to 23 percent. The original large pizza was now truly a medium-sized one.

By 2005, excise tax – the tax paid on the import and production of cigarettes – had increased to 52 percent of their retail value. This meant that more than half of what a smoker paid for his fix was supposed to go to SARS. By then, the so-called sin taxes had become a standard feature in the annual budget speech of the finance minister. Year by year, it became more and more expensive to smoke. New legislation also made compulsory further extensive health warnings at any point of sale. Soon thereafter, the government banned smoking in partially enclosed public places such as covered patios, verandas, balconies, walkways and parking areas, and smoking in cars when children under the age of 12 were present. Children under the age of 18 were also prohibited from entering designated smoking areas and from purchasing cigarettes. In 2016 it was estimated that the proportion of active smokers had declined to about 16 percent of all adults. The pizza kept on shrinking. Quite clearly, the big brands were starting to lose money as a result of an ever-decreasing number of smokers.

But these legislative restrictions and requirements of government weren't

their only headache. In the 1990s, partly because of these pressures, the various schemes and scams which had once cornered the remaining third of the pizza or what was left of the trough after the big boys had fed, started increasing in volume and prevalence and began eating into the dominant share of the big companies. Firstly, there were those unscrupulous people who would smuggle cigarettes into South Africa by not declaring them at all for tax purposes or only declaring limited amounts. The effect of these practices was that they could then sell their cigarettes in the local market at the same price as the legitimate companies, and thereby make a huge profit because they didn't pay duties or value-added tax (VAT) to the revenue authority. Just to give a sense of scale, a 40-foot container can carry between 1500 and 2000 master cases (containing either 50 or 100 cartons each with 10 or 20 packets of cigarettes) with a yield of about R10 million if you are successful in smuggling it into the country.

Related to this are two other scams known as ghost exports and round-tripping. Ghost exports, in their essence, seek to create the illusion of goods having been exported when they were not. In its simplest form, exporters simply provide the paperwork that appears to show the goods have been exported, thus permitting the deduction of VAT and duties. Its more sophisticated form requires the actual exportation of one or more containers, often holding less than what is claimed on the paperwork or nothing at all. Previously corrupt customs officials would 'confirm' by way of a stamped customs document that the goods had left the borders of South Africa when they had not. As SARS began to clamp down on corruption at ports of entries and modernised its customs systems, more sophisticated versions of the scam appeared.

Another variation of ghost exports involves importers who claim to be importing goods for purposes of exporting them. Sometimes they claim the goods are being kept in bond in their warehouse, which defers the obligation of having to pay duties and taxes, and then fraudulently obtain proof of export thereof in one way or another. Alternatively, they claim that the goods are being imported into South Africa en route to another country, typically the two landlocked countries of Lesotho or Swaziland or countries north of our borders. Round-tripping is a derivative of ghost exports – the sophisticated cousin. Here, the goods are actually exported to another country, but then brought back by way of smuggling into the country for local consumption. All

these scams have one aim in common: they seek to circumvent the legal requirement to pay excise, duties and taxes on the local sales of cigarettes.

Yet another scam that emerged in the 1990s was illicit or unrecorded manufacturing. While cigarettes are being made, the exact number of sticks coming off the production line is recorded by a counter fitted to the machine. In theory, they are sealed units and cannot be tampered with. They become the record-keeping devices that keep track of the volumes of cigarettes produced, for tax and excise duty purposes. Unscrupulous manufacturers use a secret and unrecorded manufacturing machine, either somewhere within South Africa or outside, in which case the cigarettes had to be smuggled into the country, or, more commonly, disconnect the counter and then produce as much as possible without the quantity being reflected on the counter. The result is that manufacturers are able to sell more packets of cigarettes than what they actually declare to the taxman and, as a consequence, pay less excise duty and pocket the difference.

As I've indicated, the fourth most prevalent scam in the golden era up to and including the 1990s was counterfeiting. Crooks would simply produce cigarettes in underground manufacturing plants and package them with the counterfeited branding. The most popular brands suffered most from this scam. Smokers buying them would have been none the wiser unless they knew exactly what to look for on the packaging, including the so-called diamond stamp (with the letters RSA within it), which is issued by SARS as part of the licensing rights of manufacturers. Some counterfeiters were extremely professional in copying brands. Of course, none of those involved in these scams would pay income tax on the profits from their earnings. The net effect of these illegal practices was that the market share of the well-known brand holders began to shrink.

Soon they began to cry foul. In 2010, BATSA went on record to state what a serious problem illegal cigarettes constituted. 'More than 15 million illegal cigarettes are sold daily in South Africa and the profits are used to fund organised crime.'⁹ According to a BATSA spokesman, containers used to smuggle illicit cigarettes into the country also often carried guns and weapons. 'There are clear links between illicit cigarettes and organised crime, drug smuggling and arms smuggling.'¹⁰ Moreover, the trade in illicit cigarettes was 'directly linked to organised crime and the profits used to fund prostitution, gangsterism, human trafficking and even terrorism'.¹¹ Unfortunately for

BATSA, not a single person convicted of smuggling cigarettes into South Africa has been found with guns, weapons or drugs included in the cargo or shipment or to have been involved in human trafficking. The claim is pure hocus-pocus – scaremongering on the part of the big companies. In reality, counterfeiting of the big brands had declined by 2010 to levels that were measurably low. In January 2005, SARS confiscated 1500 cartons of counterfeit cigarettes with an estimated retail value of around R4.7 million. But this was one of the last recorded seizures of this size. Indeed, counterfeiting and the other scams were by 2010 no longer the big headache they had once been to the ‘big boys’. Another, more serious threat had emerged: the ‘new independents’ who started to flood the market with cheaper, lesser-known brands – the ‘cheapies’. They would change the tobacco trade for ever.

2

The new kids on the block

All the conditions I have described – new legislation, increased ‘sin taxes’ and decreasing number of adult smokers – created new opportunities within the tobacco industry. Some sharp business people saw the gap in the market to offer unknown brands of cigarettes – or ‘cheapies’ as they are called – at a significantly lower price than the established, famous brands. Given the significant increase in the retail cost of cigarettes, those hooked on the habit simply couldn’t afford to remain brand-conscious and were prepared to move away towards new brands that were cheaper. From the early 2000s, new cigarette manufacturing plants were set up in South Africa run by small, independent businessmen, all trying to get a slice of the ‘pizza’ and many succeeding in doing so. They were smaller outfits, leaner and meaner than the multinationals who had once dominated the market, and as a result they could manufacture their products far cheaper than the latter. Within a few years, they sprang up like mushrooms all over the country and began to make serious inroads into the market share of the large tobacco firms. The myriad of smaller manufacturers, importers and traders did not form part of TISA and openly took on the monopoly once held by the big boys’ club in any way they could. Some of them were also quite prepared to cut corners with SARS and not pay their dues to the fiscus. In effect, the emergence of these new players also began to edge the counterfeits out of the market and take over the slice of ‘pizza’ that the latter used to represent.

By 2012, some of the new independents began to put their heads together and formed their own ‘club’, the Fair-Trade Independent Tobacco Association (FITA). The primary founder members were Carnilinx Tobacco, Amalgamated Tobacco Manufacturers (ATM), Botswana-based Benson Craig, and United Africa Tobacco Manufacturers (UATM). These remained the

major role-players. Several of the other smaller traders and manufacturers preferred to sit on the sidelines, belonging to neither the TISA group nor FITA, and continued to do their own thing. By 2017, FITA had grown to include companies like Afroberg Tobacco Manufacturing, Best Tobacco Company, Folha Manufacturers, Gold Leaf Tobacco Corporation (GLTC), Protobac and Home of Cut Rag, having also shed a few of the original members along the way. FITA was a registered not-for-profit company which relied on member contributions to operate and to pay for expenses incurred in furthering its stated aims. On the face of it, it was intended to counter the TISA 'club' and promote the interests of the newcomers to the tobacco industry. According to its website, FITA sought to encourage smaller manufacturers in the tobacco industry in southern Africa to collaborate in respect of industry, regulatory and legislative matters which are common to all and to which, individually, there is little hope of making any significant difference.

Not all local manufacturers joined FITA on its establishment, however. At first, GLTC stayed away, as did a few others. Some would tell me afterwards that it was because they did not really trust each other, and others thought it a waste of time. Among the first of these new kids on the block were Highway Hennie of Apollo Tobacco, Simon Rudland of GLTC, Tribert Ayabatwa of Mastermind Tobacco, and John Bredenkamp of Masters International. A few others soon followed, including Delta Tobacco and Westhouse. This motley crew of independent tobacco manufacturers had everything counting against them. They faced fierce competition and hostility from the 'big boys' and at the same time they became involved in all sorts of tussles with law enforcement agencies and SARS. Highway Hennie found himself in trouble with the state in the early 2000s in a court case that is still ongoing. One of Carnilinx's directors was linked in the media to a cocaine dealer who was wanted by Interpol, and GLTC had a run in or two with the Directorate of Special Operations, better known as the Scorpions. Craig Williamson of Benson Craig was a notorious apartheid spy and self-confessed assassin, while the Zimbabwean John Bredenkamp was alleged to have been a sanctions-buster and arms trader. All of these reputational issues gave great ammunition to their commercial competitors for use as part of their propaganda campaign to make out the 'independents' as organised criminals. For the rise of the independents presented a worrying development to the established big names.

In fact, the battle became vicious and ugly.

One law enforcement effort that the newcomers faced came in the form of the Illicit Tobacco Task Team, sometimes called the Tobacco Task Team. The primary agencies involved in this team were the Hawks (Directorate of Priority Crime Investigations), the South African Police Service's Crime Intelligence division, the State Security Agency (SSA) and the National Prosecuting Authority (NPA). Significantly, SARS was never formally included as a member.

The origins of the team lie in a meeting held in November 2010 at the request of the head of the State Security Agency, Gibson Njenje, who had called for an extraordinary meeting between the heads of various components of the criminal justice system. Those invited included the Asset Forfeiture Unit's Willie Hofmeyr, Hawks head Lieutenant General Anwa Dramat, Financial Intelligence Centre manager Murray Michell and SARS deputy commissioner Ivan Pillay.¹² Njenje first met with a SARS delegation, before the main meeting was to start. Here an SSA official, Ferdi Fryer, the acting head of the agency's Economic Intelligence Unit, presented a report claiming to have evidence of corruption by senior members of SARS. I, together with another senior SARS official, was present with Pillay at this meeting. We had come prepared, as we'd been tipped off in September that year by persons within the tobacco industry of efforts under way to use the intelligence services, the Hawks and NPA to discredit SARS and its investigators looking at the tobacco industry. We had recordings of these tip-offs, certain documents to prove the claims and even evidence that R600,000 had been set aside to 'influence' the NPA and Hawks to discredit officials at SARS.¹³

Pillay took the opportunity in the short meeting with Njenje to propose the formation of a multi-agency task team. Fryer hastily removed his presentation, and instead the meeting revolved primarily around seeking consensus on the view that the tobacco industry presented a big challenge to the South African fiscus, and that all enforcement agencies should work together to tackle the problems involved. Nobody disagreed, as the proposal made absolute sense. In effect, it was here that the Illicit Tobacco Task Team was formed.¹⁴ In December 2010, a month later, I and another senior SARS official met Fryer, and took him through all our tobacco-related projects and cases we were involved in. It was understood that Fryer would act as the

primary go-between between all agencies in the establishment of the task team. We did not hold back, and Fryer likely received the most detailed and insightful briefing on the tobacco industry he would ever hear. It was all hail-fellow-well-met, but after this meeting, I would never see the man again. When he left us with some files under his arm, we hoped we would meet him again at the first joint session once he had conducted similar exercises with the other agencies, but such hope soon faded. What I subsequently learned from the grapevine was that the team had ultimately been established, but SARS was never invited to attend any of their meetings.

It seems that as it was constituted, the team had as its head an informal group of law enforcement officials who basically determined its activities and investigations. The team was overseen by a Hawks officer, Brigadier Casper Jonker, who had once been a detective engaged in primarily white-collar crime investigations. His close colleagues were Crime Intelligence police officer Lt Colonel Hennie Niemann and, initially, Ferdi Fryer, who was soon replaced by Fryer's second-in-charge, Chris Burger. Advocate Johan van Heerden was the main representative of the National Prosecuting Authority and Warrant-Officer Willie Schreiber represented the detective service. These were the main people on the task team.¹⁵

My criticism of this task team was no secret, nor was their dislike of me. I held the view that they pandered to the interests of BATSA and TISA only, often at the expense of smaller and local tobacco manufacturers while ignoring evidence that implicated TISA members and their agents. I took issue with the way they operated, their collusion with the multinationals and their agents, and the element of corruption I came to discover that resulted from this incestuous relationship.¹⁶ Some people in this team, in turn, accused me of being obstructionist and of not wanting to help them. Others seemed to want to believe rumours that I was corrupt and there were several attempts made to try to find 'dirt' on me. By the end of 2013 and the start of 2014, the task team seemed more preoccupied in activities relating to this than their real work. It was laughable at first, and then turned serious rather quickly. The animosity between us was palpable, so much so that in February 2014, in total exasperation, I called a meeting with the SAPS head of detectives, Lt General Vinesh Moonoo, and Hawks boss Lt General Anwa Dramat, to try to broker some kind of truce between us. This didn't really result in much, because

Moonoo in his wisdom brought Brigadier Jonker along, without apparently realising what he was doing, and I had to hold my punches.¹⁷

It seemed to me there was mounting evidence that pointed to what some academics refer to as the ‘regulatory capture’ of the Illicit Tobacco Task Team. This practice refers to the ways in which private corporations with significant influence, surreptitiously and ever so slowly, begin to direct and influence the way in which state agencies and their officials operate in order to advance their own agendas. I was convinced that this had happened to this task team and had said so on many occasions. This certainly did not endear me to the task team or some of the TISA members. Long before ‘state capture’ became a common term on the lips of South Africans, I used it to describe the relationship between multinational tobacco companies and the task team. I said outright that some of their officials had been captured and were serving the interests of the big boys. Time would prove me right.

The evidence suggesting all was not well at the Illicit Tobacco Task Team began piling up to support my views. When SARS, in terms of Project Honey Badger, sought to look at all role-players in the tobacco industry, across the value chain, and uncover all sorts of malfeasance, the task team would hear nothing of it, especially where TISA members were concerned. The growing evidence that TISA and a private security firm in the employ of TISA and BATSA, Forensic Security Services (FSS), participated in driving and directing some of their cases concerned me greatly. There are unfortunately some facts which I am unable to divulge publicly for legal reasons, but there is enough I can mention here to prove my point. Firstly, it was common knowledge that representatives of BATSA and FSS, through TISA, attended planning meetings and sessions of the task team, where they seemingly got to influence the law enforcement agenda. One of those who attended these closed meetings was Martin Potgieter, who was officially an employee of BATSA, but had been seconded to TISA, acting as their law enforcement liaison. Allegedly, BATSA’s presence gave it access to state intelligence and the ability to help determine whom the law enforcement agencies should target, among them its direct competitors. According to one source, a senior member of BAT plc, Allan Evans, even went so far as to present a detailed proposal for the investigation of a commercial competitor, Gold Leaf Tobacco Corporation (GLTC).¹⁸

Another matter emerged in the public domain years after it had occurred. After SARS had detained trucks of a transporter, a South African subsidiary of the London-based company Lonrho, named Rollex, SARS wanted to conduct a raid on its premises but was halted by formal requests emanating from members of the task team. Only years later would I come to learn that Fryer and one of his informants had flown to London, and made a presentation to the Lonrho board alleging how ‘corrupt’ SARS was and claiming that its officials were not to be trusted.¹⁹

In another matter, which took place in 2013, a heavily armed police team, together with members of the elite police task force, descended upon the premises of local tobacco manufacturer Amalgamated Tobacco Manufacturers (ATM) in Pietermaritzburg. More about this raid will be given in a later chapter. Suffice to say that although complaints were made by the proprietor of ATM, the colourful and outspoken businessman Yusuf Kaje, against Casper Jonker and the team that conducted the raid for having assaulted and intimidated his workers and maliciously damaging property, nothing came of them.

I also received reports that members of the private security firm FSS were accompanying these sorts of raids by law enforcement agencies, including some conducted by SARS. As a result I gave an instruction to all units that reported to me to not allow FSS to attend inspections and raids and to be wary of being directed by them, lest we be accused of advancing the interests of one group in the tobacco industry above or at the expense of another.

Another matter that came to my attention in 2013 was a criminal complaint registered by the tobacco manufacturer Carnilinx, alleging that members of the Illicit Tobacco Task Team and FSS had illegally entered its premises and unlawfully planted a tracking device on one of its trucks. Carnilinx director Adriano Mazzotti would explain to me later how he came to discover this device, which used a SIM card, and said he asked a private investigator to look into it. What the investigator found was that the device and its SIM card had been used interchangeably by both FSS and the government.²⁰ Despite complaining about this to the Hawks, Mazzotti said nothing came of this case either.

After having left SARS, I came across an affidavit by the FSS whistleblower Daniel François van der Westhuizen, in which he related in 2016 how two years previously, at Rietvlei Dam resort, just outside Tshwane,

members of FSS and of the Tobacco Task Team and even a few SARS officials had come together to have a party in honour of Niemann. With the braai fires ablaze, meat sizzling on the grills, and lots of booze flowing, there appears to have been no distinction between law enforcement official and private investigators – they partied together just as they worked together. According to Van der Westhuizen, it was on this occasion that members of the task team, an SSA official, two SARS officials and an FSS man, sipping at their beers, swore to each other never to utter a word about how they had illegally entered Carnilinx's premises and planted the tracking device without the necessary authority. As one of the SARS officials remarked, if this ever came out, their jobs would be on the line.²¹

The Illicit Tobacco Task Team was never really in the news for the right reasons. They certainly did not have any great track record of massive busts or convictions of significant criminal offenders in the tobacco trade. They appear to have plodded along with the sort of raids carried out on ATM, small seizures of illicit cigarettes at ports of entries or incidental busts, as if these were the outcome of many months' work and a specific plan of action. Usually these investigations resulted in the arrests of truck drivers or factory workers. Other than that, they seemed overly preoccupied with what SARS was doing and its own successes, and with finding 'dirt' on me and other SARS officials. They were much ado about nothing, I'd say. They were unceremoniously shut down, rather quietly, sometime in late 2014, with little or no success to their name.

3

Agent 5332

Before I describe some of the newcomers to the industry, who became locked in battle with the established players, I need to introduce a person whose name will crop up repeatedly in these pages. She is Belinda Walter, whom I first met on 4 September 2013. It was a fateful day for me in view of what would later transpire. I had no inkling of her existence at this time, other than a prior email exchange following a minor complaint she had addressed to then acting commissioner of SARS, Ivan Pillay, in which she described herself as the chairperson of the new Fair-Trade Independent Tobacco Association (FITA). Pillay asked me to meet with her and explain our response.

At this point in time I was a group executive in charge of tax and customs enforcement investigations, managing five investigative units at SARS and overseeing just over 85 big projects that were focused on what we called the illicit economy. Contrary to a finding by a subsequent internal panel tasked by SARS to investigate the relationship between Walter and me, I was in fact not alone when we met but accompanied by another SARS manager.

When we first met, Walter presented herself as an attorney who had just recently opened her own law practice in Pretoria, and who specialised in matrimonial disputes, trademarks and patents.²² She claimed that her role as FITA chairperson was somewhat of a sideline or pastime. I believed her. In 2015, however, she would make the startling claim under oath that she had initiated FITA in conjunction with the State Security Agency (SSA). ‘FITA was intended to be a conduit for SSA and law enforcement agencies to understand the tobacco industry and the smaller, local tobacco manufacturers and whether any impropriety was being conducted.’ If this story is to be believed, there is no doubt that there could have been no legal authority for the creation of FITA as a spying mechanism for the state. Again, if it is true, the

members of FITA must have been completely unaware that they were being spied upon by their very chairperson.

Soon after our first meeting in September, Walter was assaulted at her offices by an unknown woman. Apparently, she received a call to come down to the lobby of the building to meet someone who wanted to talk to her. She had no reason to suspect anything and duly went down to meet the person. She apparently came across a man and a woman, neither of whom said much of any relevance, but then the woman suddenly punched her in the face and the two ran away. Walter reported the issue to the police and a few other people she knew. I came to learn of this incident by chance when another attorney sent me a CCTV photo obtained from the lobby which showed the face of one of the people involved and asked me if I perhaps recognised the person. This attorney then told me what had happened, and I was rather shocked at the event and offered to assist if I could.

Almost two months went by. On 22 October 2013, Walter texted me one evening and we had a friendly exchange of words. This culminated in her asking me out on a date. I had a social engagement that coming Friday evening with friends and I suggested to Walter that she join us. It was a jolly evening. From this day Walter and I began dating. It wasn't an 'affair', as it was later labelled.

That same weekend, Walter and I went to a cheese factory outside Pretoria, near the Hartbeespoort dam, a place called Van Gaalen where they offer daily picnic baskets and an outside setting near a river. We were having our picnic when she became rather serious and said she needed to discuss something with me. I had no idea what was coming. We walked down to the river, and as we were standing there, she made a startling confession to me. She told me she was a spy, codenamed 5332, for the Illicit Tobacco Task Team, and that a few of the officials on the team had it in for me for some or other reason. She identified Chris Burger as her 'handler' and told me that, at our first meeting almost two months previously, she had carried a concealed recording device to capture our conversation. This was on the instructions of Burger, who believed I was corrupt. She made light of this by saying that Burger was rather disappointed with the recording because it didn't implicate me. She also told me that before Burger became her 'handler', she worked closely with his predecessor, Ferdi Fryer, and another SSA operative known to me to have been involved in the tobacco industry, Graham Minnaar.

At first taken aback, I appreciated what I believed to be her honesty and thought that she was taking me into her confidence. She first proposed that I 'play along' and pretend that I did not know what she'd told me. She would in turn give 'reports' to Burger, and in doing so prove over time to him that I wasn't corrupt as he believed. I had no appetite for such games and said so to her. I told her in no uncertain terms that if she did not tell Burger what she had disclosed to me, then I would. She told me she had been finding the role of spy increasingly difficult in recent times, partly because of things she attributed to Burger, which I won't elaborate upon here, except to say they weren't very complimentary. She said she had in fact intended to end her role as a spy in any event and asked me to allow her to do so on her own in discussions with Burger that following week. True to her word, or so I believed, she texted me days later, saying that she and Burger had parted ways. As far as I was concerned, that ended the matter. One side-effect of this was that I now viewed her in a different way. I saw her as one of 'us', civil servants who were trying to curb the scourge of crime in the country. In doing this, she had instantaneously won my trust. I would come to regret this later.

The very next day, a Sunday, we were having lunch at a restaurant called Papa's in Hatfield in Pretoria. Walter dropped another surprise on me. She told me she was the attorney for Carnilinx, the independent tobacco company. Not to worry, she said, she had already informed them, through their director, Adriano Mazzotti, that she was seeing me socially. According to her, he had no issue with this and wished her well. I confirmed with Mazzotti years later that this was indeed true.

I had an issue with this. Technically, nothing in law or in any SARS rules precluded me from dating a lawyer who represented taxpayers in dispute with SARS. All that I had to ensure was that I did not directly participate in any decisions or matters which would affect the client. Quite a few people at SARS are married to or date lawyers, advocates, accountants and auditors who work at firms that often engage in disputes with SARS. It is an inevitability of life. But I felt uncomfortable. I tried, in the best way that I could, to explain to Walter that if this was the case, unfortunately we would not be able to see each other socially again. 'No, no', she said, 'you misunderstand me.' She then went on to set out what she meant. She said she had felt terribly uncomfortable about being the lawyer for Carnilinx, when in

fact she was actually spying on them for the Illicit Tobacco Task Team and getting paid both ways. It was a moral dilemma for her, even though she assured me it was all legal and above board, but she welcomed the opportunity to end things with Carnilinx just as she was going to end her role as spy with Burger too. I left this decision entirely up to her.

Barely two weeks or so into our dating – I was seeing her only on weekends and not during the week on account of my long working hours – I became a bit annoyed with her dilly-dallying in respect of her resignation from Carnilinx. I again reminded her that it was her decision and that I trusted her judgement, but that the indecision couldn't go on any longer. On 16 November 2013, she sent an email to Carnilinx and SARS, and to me, in which she announced her resignation as attorney for Carnilinx.

As an aside, let me say that the SARS panel that was instituted in 2014 to investigate the relationship erred in its findings on this aspect too, as Walter would point out in an unrelated affidavit later in 2015. I was in fact notified by her on this day and not in February 2014, as the panel claimed. Importantly, at this stage Walter only represented Carnilinx as attorney, so the further claim by the panel that she represented several tobacco firms which SARS was investigating at this time was factually incorrect too.

There were two other things in those early days that Walter and I had to deal with from my side. Whereas I was initially under the impression that her role at FITA was just a 'sideshow' and nothing very serious, it became increasingly clear that this was not the case. So I raised this issue with her too. This time she asked me a favour. She told me that the next annual meeting of FITA was scheduled for 21 November 2013, and she did not anticipate being re-elected. She asked me just to wait until then, as she could bring about a natural end to the relationship. It seemed a fair request.

However, on the day of the AGM, she sent me a text message, stating that she had been re-elected. I immediately sent a message back, saying again that it was her choice, but we could not continue our relationship if she accepted re-election. On the same day she sent an email to all FITA members, resigning as chairperson, copying in SARS as well as me. (Again, the SARS panel I have already mentioned also missed the little fact that I had indeed received notification of her resignation on this day.) So, all in all, whatever might have been perceived conflicts for me or her were now removed as far as I was

concerned. And I believed she thought the same, because she made this point in writing to a newspaper later on.²³

Another issue I believed we needed to deal with was her confession to me that she wasn't tax compliant because she hadn't declared all her income streams, notably those as a spy. At that time nobody yet knew she was such a spy, least of all the FITA members and Carnilinx. I had given her my word to keep this a secret. At the same time, I had to somehow make sure that she became tax compliant for obvious reasons, while ensuring that her role as spy wasn't exposed within SARS or anywhere else, partly so as not to cause harm to the Illicit Tobacco Task Team's own operations and partly to ensure her and her family's safety. My only solution was to take a senior manager in my division and my direct line manager into confidence. I also disclosed the relationship to two other senior managers at this point. I found one of these managers to have known of her role as spy in any event, since he had been liaising with Chris Burger on many issues. (Even here, the SARS panel got it all wrong once again – they stated that I had only declared the relationship months later in February 2014.)

Some people have asked me why I pursued the relationship. I have thought about this long and hard, trying to come up with some sort of explanation that makes sense. I suppose I was persuaded by or attracted to what I thought was her genuine honesty and her vulnerability from the start. We were both single and I was very busy at work. She didn't seem to mind my long hours and that I was only able to see her on weekends. And there was something important I believed we had in common: we were both fighting the bad guys.

The relationship certainly started off with a few surprises, but it actually developed rather slowly since we only really saw each other on the weekends. During the week, we stayed in contact via text and phone calls. That December, she accompanied me on travels through Namibia, Zambia and Mozambique, and we came to know each other a bit better. There were two incidents, which in hindsight should have caused alarm for me, both relating to her accessing my mobile phone without my permission. One instance occurred in Namibia, and the second in Mozambique. This meant that she would have had access not only to whomever I may have been calling or been called by, but all my text exchanges with colleagues, taxpayers and their

representatives, and my entire email inbox at SARS. But the way she played it, when I found out, was that of a jealous girlfriend, and that was how I experienced it. Other than that, December was, shall I say, somewhat peaceful.

Things would begin to turn for the worse in January 2014. Earlier in November, we had spent a weekend in the Cape. Upon embarking in Johannesburg, as we were queuing, all squashed up as one always is, to get to the aeroplane's exit, she switched on her mobile phone and messages starting coming in. I couldn't help seeing one message she had opened, which stated that a certain amount of British pounds had been paid into an account. She looked at the message, then up at me, and said to me that I wasn't supposed to see that. She would from that point refer to the person who had sent her the message as 'the Pom'. I didn't understand and didn't feel comfortable about asking, as it was still early days in the relationship.

But in January 2014, when SARS was busy auditing her undeclared income streams, she confessed to me again in greater detail about 'the Pom'. She explained that in conjunction with the Illicit Tobacco Task Team, and with the full blessing of the state, she was also a spy for BAT plc. She never gave me the nitty-gritty of it. We had some disagreements about how this could possibly have been legal, and eventually I advised her of the need to comply with the Financial Intelligence Centre Act since she was an attorney. I couldn't believe that as an attorney she could be so naive to think such practices would be considered lawful. But she kept on assuring me it was all above board. I didn't accept it, but then she was the lawyer, not me. I even asked a colleague for advice and passed this on to her. Walter in turn confirmed to me that she had complied with the advice, and I accepted that.

Walter's great difficulty with the SARS audit was that she needed to demonstrate the exact income and the periods of earning. Suddenly she found 'the Pom' at BAT plc headquarters less than forthcoming. She needed to prove the income source and, because BAT refused to provide her with records of this, I advised her to put everything in writing to them. And so she did. She even, at one point, wrote to Martin Potgieter, the BATSA employee and part-time member of the Illicit Tobacco Task Team and TISA representative, and to the BAT CEO, Ben Stevens, in London. She also asked me to arrange to intercept her phone calls when she planned to call 'the Pom' and so record them. I told her that she should rather record them herself and gave some feeble excuse why I couldn't help her. This conversation was via text and flies

against the allegation she would later make that I had been intercepting her phone calls since as far back as May 2011 in order to ‘groom’ her.

More revelations were forthcoming. The manner in which she was being paid by BAT plc appeared to be criminal. They used so-called cash passports, debit cards used by travellers into which one deposits money that can be drawn worldwide. The thing about this particular scam is that these cards weren’t in her name. So the payments made to her by way of deposits in the United Kingdom, which she then withdrew from ATMs in South Africa, were totally off grid. Nobody knew of them. Ultimately, she self-recorded at least two conversations with ‘the Pom’, both of which incriminated ‘the Pom’ and BAT plc in possible bribery, corruption and money-laundering and in efforts to conceal these crimes from the state.²⁴

It also became apparent from these conversations that ‘the Pom’ was indeed in close contact with Burger and Niemann of the Illicit Tobacco Task Team. She played these to me one evening at my home and I recorded them myself. She retained the originals.

BAT ultimately caved in and sent a detailed list of deposits made to her, every month for about a year, including cash payments she had collected in the United Kingdom from them, and also set out an amount still due to her. She privately gave me a copy of this.

By this time, I had reached the end of my tether. What else was she hiding from me? We began to have arguments and I started to distance myself from her, slowly but surely. But she kept on reassuring me that all was above board and approved by the state. I didn’t agree with her, and told her so, but she maintained the facade and said she was the lawyer – not me.

During the course of the relationship, we discussed the tobacco industry at great length at times. But these were private discussions, and I certainly never intended them to become public. She claimed to know all sorts of crazy things about Carnilinx’s directors, that they were supposedly involved ‘in drugs’ and in laundering money, that one had physically abused his wife, and so on. I never referred to these things in any conversations or submissions I made subsequently. But at this stage, as far as she was concerned, Carnilinx was one of the bad guys.

According to Walter, the Illicit Tobacco Task Team’s officials were also all corrupt to the core, abused her and some had made untoward advances to

her. All were ‘in the pocket’ of TISA, BATSA and BAT plc: there was an unholy alliance between this task team’s key officials and BATSA, BAT plc and TISA. At one point, when I asked how it was possible that she as an attorney could associate herself with such behaviour, she said she didn’t know better and that she only really came to understand the true nature of things following discussions with me. To ‘redeem’ herself, she took it upon herself to expose what she knew. She asked me to introduce her to a journalist who, she said, should be someone I trusted completely and able to understand the tobacco industry with all its complexities.

The only person whose name jumped to mind at this stage was the financial journalist and editor of *Business Times*, Rob Rose. I met with Rose informally and said to him that Walter wished to meet with him and had all sorts of things to tell him. I explicitly stated they weren’t tax-related issues and that I could not be part of the discussions.²⁵ I had little inkling of the true extent of the incestuous nature of the relations between officials of the task team, BATSA, BAT plc and TISA, and what I did know was limited to what Walter had chosen to share with me.

Walter met with Rose. I wasn’t present and to this day have limited knowledge of what was exchanged between them. In preparation for this, she downloaded lots of emails, text exchanges and other information from her older mobile handsets and data cloud from past years. In a few texts to me, she refers to these. She used these in her engagements with Rose to support her allegations. The media article ultimately authored by Malcolm Rees, one of Rose’s reporters at *Business Times*, the business section of the *Sunday Times*, was based on some of Walter’s evidence. It was published by *Sunday Times* on 30 March 2014 with the title ‘BAT’s Smoke and Mirrors War on Rivals’. Walter completely sold the Illicit Tobacco Task Team, BATSA, BAT plc and TISA down the river. Whereas they had once been comrades in arms – and Carnilinx and the FITA members the criminals – suddenly SARS was the only good guy in the game. This was soon to change.

Our relationship had by this time become very strained and I began to see less and less of her. Things reached boiling point on the evening of 31 January 2014, when at a social gathering she disappeared, asking for my car keys, ostensibly to get a jacket from my car because she was cold, but she stayed away for an unusual amount of time. I asked a female friend of mine to check up on her, as I thought she might be in the bathroom. My friend came back

and told me she had found Walter in my car, busy going through my mobile phone. This was the third such incident. Walter, clearly embarrassed by being found out in this way, returned and began to accuse me of infidelity. She stormed off in a huff back home.

The next day she told me what had happened on that fateful evening after she got home. She made contact with a director of Carnilinx, Kyle Phillips, asking him to 'take her back' and 'provide for her financially'. In exchange she offered to assist them in their ongoing battles with the state. Phillips did not hesitate and arranged for an advocate, an attorney and the journalist Malcolm Rees to meet with him and Walter the very next day. At this meeting, Walter explained to them all that she was a spy for both BAT plc and the Illicit Tobacco Task Team. Apparently, she also made some nasty allegations about me. So by this time, it was now the Illicit Tobacco Task Team, BATSA, BAT plc, TISA and SARS who were the bad guys, and Carnilinx were suddenly the good guys again.²⁶

Later in the afternoon of that same day, 1 February 2013, I drove past Walter's home to see if she was okay. She had calmed down by then and let me in. We had a discussion and she then began to tell me that she had made a terrible mistake and elaborated upon what she had done, also showing me her texts to Phillips of the night before. She immediately began to withdraw what she had confessed to Carnilinx, the advocate, the lawyer and Rees, in various letters, emails and text exchanges to them.²⁷ She even wrote to me a day or two later, apologising for defaming me, stating she had made up the allegations against me on the basis of 'industry rumour'.²⁸ In hindsight, I should have by this time run a mile. But I didn't. I ascribed her behaviour to someone who had lived a double life and who hadn't been properly debriefed by her handlers, and so I was instead quite sympathetic to her. This was the biggest mistake I have ever made in my life. We made peace.

Following these events, she addressed letters to Rose, Rees and various others at *Sunday Times*, in effect asking them to return the evidence she had given to them. They refused. Then it was the turn of the *Sunday Times* and some of their journalists to come under fire, with Walter accusing Rees of having accepted bribes, being offered a holiday and cocaine, to report in a biased manner, and another journalist of having supposedly received sportswear as a bribe from a tobacco manufacturer.²⁹ Rees has denied these allegations and I believe that he was cleared by an internal investigation

around this time.

She had flipped again, now reverting to the position that it was Carnilinx, the Illicit Tobacco Task Team, BATSA, BAT plc and TISA (as well as some *Sunday Times* journalists) who were the bad guys. SARS were the good guys again. This was to change again soon enough.

Having temporarily burnt her bridges with the *Sunday Times* and *Business Times*, she asked me again to introduce her to another journalist who could be trusted and would understand the complex world of cigarettes. This time I introduced her to the *Mail & Guardian* journalist Sam Sole under pretty much the same conditions as when she had met Rose a month or so earlier.³⁰ Once again, she handed Sole all sorts of evidence in support of her stories. But now she was adamant that she needed the data on her handsets and in the cloud fully recovered and she asked me to help. I did. I accessed and downloaded whatever was in the data cloud and also asked a friend who had such a business to make mirror-images of the data on three of her handsets which she had given me. My friend did this professionally, and gave me two copies on memory sticks, both sealed in plastic evidence bags.³¹ I returned the handsets to Walter, as well as both memory sticks.³² She handed one back to me, saying I should keep it, and that I could use it for whatever reasons I chose. I think that at the time she didn't think I would look at the data at all, because I just threw it in a basket among other junk that I kept on top of my fridge. I genuinely believed at the time that whatever may have been on that memory stick was limited to what she had shared with me and I saw no reason to look through it. It would only later become significant for me.

By this time, she had flipped back to the position that the Illicit Tobacco Task Team, BATSA, BAT plc, TISA, Carnilinx and the FITA members were the bad guys, for different reasons, and that SARS was the good guy again. The article by Sole was published in the *Mail & Guardian* on 20 March 2014, entitled 'Big Tobacco in Bed with Law Enforcement'.

I had last seen Walter at the end of April 2014, and on 13 May I ended the relationship. I had had enough. More and more things were coming out and people were beginning to warn me to steer clear of her. I tried to remain civil at all times, whereas her texts to me became increasingly vitriolic. Things culminated in an attempt by her to extort money from me, asking me to pay her as a 'source' for SARS, or else she was going to release all text exchanges

between us. I refused to be blackmailed and said so to her. She lied to me, saying that she had found an anonymous recording device delivered to her on 27 May 2014, supposedly with me ‘bragging’ that she was a ‘source’ for SARS whom SARS didn’t have to pay. I denied having said this and questioned the recording’s authenticity.³³ She was subsequently never able to produce it when asked to do so and, ultimately, in 2015, admitted under oath that she had lied about this.³⁴

What I didn’t know at the time, and only came to discover much later, was that Walter, just days before, had instituted legal action against BAT plc in the United Kingdom through her attorneys, demanding £5 million from them. She accused BAT of bribery, corruption, money-laundering and industrial espionage and threatened that should they not pay the money by a specified time into a lawyer’s trust account, she intended suing them in the United Kingdom. In this demand she threatened to sue the SSA at the same time for the same things.³⁵ So at this point in time, all the oceans on the planet could not wash BAT plc, BATSA or the Tobacco Task Team of their sins.

On 27 May, she flipped again. This time, she went back to the fold of the Illicit Tobacco Task Team. According to a document Walter compiled later, Chris Burger had told her that her leaking of information to the *Mail & Guardian* and the *Sunday Times*, and their subsequent exposés of the Illicit Tobacco Task Team and BAT, had placed the latter in a difficult position and that she was on her own. But, according to Walter, there was a way out for her. Burger and Niemann of the task team then met with two unnamed National Prosecuting Authority officials and cut a deal. Walter was to withdraw her legal action against BAT plc and her threatened legal action against the task team. In return for this, she was to be given some kind of blanket amnesty from prosecution for all crimes she might have committed and would then receive their assistance against SARS and me.³⁶ The Illicit Tobacco Task Team were once more the knights in shining armour, and SARS was suddenly the bad guy, as were Carnilinx and the other FITA members. Another flip.

The very next day, 28 May 2014, Walter launched an attack on me by way of an email, making all sorts of false allegations. This set off a sequence of events at SARS that soon presented all of my and other enemies of SARS with an opportunity to attack the institution from all sides.

Her allegations and what followed in their wake had disastrous consequences, with over 55 managers and over 500 skilled staff leaving the

institution: the restructuring that followed and the subsequent underperformance of SARS left the government poorer for many years to come.

On 27 June 2014, Walter upheld her end of the deal with the task team and wrote to BAT plc and withdrew her legal demand for £5 million, blaming me for supposedly causing a division between BAT and their local counterparts. All was forgiven. Suddenly, BAT and the Illicit Tobacco Task team were the good guys again and SARS were the dogs.

Walter's allegations against SARS were rather underdeveloped at first. Her attack on the institution would later morph and adapt as the wind blew, and as more enemies of SARS began to operate in support of each other, some in tandem and others simply using the opportunity she presented. This would culminate in a narrative that turned a rather nondescript, tiny investigative unit at SARS into a fictitious 'rogue' intelligence unit that was involved in a host of supposed illegal and unlawful activities. It was all hogwash, but the claims were bolstered by one-sided 'internal probes' and leaks to the media by 'anonymous sources and intelligence officers', all of which basically sought to confirm the 'rogue unit narrative'.

Walter had opened the door, and others then kicked it in. The attack suited everybody, including Walter and her cohorts in the Illicit Tobacco Task Team, BATSA and BAT. All their sins were simply ignored and suppressed and never saw the light of day during the subsequent 'probes'.

I only really awoke to elements of the rationale behind the 'rogue unit narrative' when Walter began claiming, under oath and in letters to the media and through press releases and legal notices, that I had unlawfully intercepted her communications since May 2011, which is a period of about three years prior to our having met. I knew then, instinctively, that there had to be a reason why she would make such a specific allegation. And then it dawned on me that I still had a copy of the memory stick lying in a basket on the top of my fridge with all her data on it. I began to work through it, and came to discover evidence which severely implicated her, members of the Illicit Tobacco Task Team, some tobacco manufacturers and the private security company FSS in a host of criminal activities, none of which she had ever told me or Rose or Sole about.

It was clear to me, then, that she needed to discredit that data. She needed

to provide some or other explanation of how I had possession of it, and she needed to cover herself and others at all costs. If ever I was to produce the copy as evidence of their wrongdoings, she needed a means to say that I had obtained this evidence unlawfully.

Behind the scenes, she needed to cover the tracks too. On 8 August 2014, Walter met with Niemann, Burger and Jonker at a café in Brooklyn, Pretoria. In a subsequent email to them, she basically admitted to having given me access to the data and claimed she had also given it to the Hawks. I have no doubt that the three members of the task team were suddenly all very worried about what I was going to do with the data. And this gave further impetus to their joining in what later became known as the ‘rogue unit narrative’. They all had to ensure that nobody ever looked at that data in detail.

On this same day in August Walter also sent off an email to Malcolm Rees, who had, it seems, suddenly become unbothered by the allegations she threw at him and the *Sunday Times* earlier that year. This would form the basis for his first front-page article entitled ‘Love Affair Rocks SARS’ on 10 August 2014.³⁷ This article was the precursor of a series that originated and developed the ‘rogue unit’ narrative. After this article appeared, I and, later, others at SARS became fair game to everybody and anybody that had a grievance about us.

Walter’s ‘confessions’ to Carnilinx on 1 February 2013 would later become the basis upon which the company took on the behemoth BATSA publicly, by applying for an interdict against them and Walter in August 2014. By this time Carnilinx was still her enemy. In reply, Walter attacked them on a range of personal issues and also accused me and the acting SARS commissioner, Ivan Pillay, of having conspired with Carnilinx to bring the interdict against her and BATSA, in exchange for tax leniency. Pure nonsense, but that was how the wind blew for her then. Carnilinx’s directors, according to her, were organised criminals and SARS was just plain bad for conspiring with them.

Predictably so, perhaps, following the interdict application Walter soon made peace with Carnilinx, agreeing to work with them against BATSA, BAT plc, TISA and SARS. Pretty soon, she was on retainer with Carnilinx, and apparently being paid the sum of R50,000 per month via another attorney’s billing system.³⁸ But this truce didn’t last long either.³⁹ By 2015, when it came for her to sign an affidavit in which she admitted that while acting as an

attorney for Carnilinx she had betrayed some of their business information to BAT plc, she flipped again and refused to do so. This document, unsigned but compiled by Walter herself, concluded as follows: 'I further admit the following. I was at all times an admitted attorney of the High Court of South Africa and owed Carnilinx a fiduciary duty of trust. I breached the fiduciary duty of trust in that I disclosed confidential information of Carnilinx's business information to BAT UK. I received financial reward for disclosing confidential information to BAT UK, from BAT UK. I was offered a financial reward. BAT UK's representatives, Colin Daniels (Denyer) and Allan Evans, offered and indeed paid me a reward for acting improperly. BAT UK, duly represented by Allan Evans and Colin Daniels, were at all material times aware that I was the attorney acting for and on behalf of Carnilinx and that I was the attorney for various other cigarette manufactures and that I was the chairperson for FITA. I now accept, and understand that my conduct, at the time, was improper.'⁴⁰ Soon enough, in the light of this information, Carnilinx registered a criminal case against TISA, BAT plc, BATSA, Walter, and officials of the Illicit Tobacco Task Team and SARS in 2015, confirming that the honeymoon was now over for all concerned.⁴¹ Then they moved into higher gear by bringing a civil action against TISA and their and BATSA's security arm, FSS, in the Western Cape High Court. They ultimately lost the case on a technicality.⁴²

Then, by a strange twist of fate, in 2016 an FSS operative, Daniel François van der Westhuizen, broke ranks and provided evidence that exposed Walter as an informant for FSS. In text exchanges as late as February 2015, while she was supposedly back on side with Carnilinx, she passed on to FSS information about Carnilinx's business activities. This means that whilst she was working for Carnilinx, supposedly acting in their interests against BATSA and FSS, she still kept the line open to FSS.⁴³

At the time of writing this book, Walter seemed to have disappeared off the face of the earth. There is no trace of her online or on social media, and she seems no longer to be registered as an attorney. To this day, I regret my involvement with her – as do many others, I believe.

Do we help her or sink the bitch?

I was not the only official at SARS that was targeted and discredited by the same combination of actors. There were quite a few others over the years, and in most cases these plots did not succeed as well as in my case. There was one that almost succeeded, though it did have dire consequences, which I can relate here.

Molibinyane Khumalo (not her real name) had been working as an investigator for SARS for a long time. She had been a key participant in many tobacco-related investigations. Soft-spoken, a single mother and incredibly hardworking, she took great pride in her work and had always stood steadfast as a witness despite aggressive cross-examination. In terms of rank, she was never a manager and she always liked to be involved in the actual collection of evidence and presentation of cases in courts and disputes.

The world of investigations is dominated by men. For Khumalo to have developed the kind of track record that she had as an investigator speaks volumes of her abilities. She is among the many unsung superstars of SARS's enforcement division, one of the few that understand the different scams in the tobacco industry and how to bust them. But little did Khumalo know that as a result of her diligence and effectiveness in ferreting out the crooks, she would eventually become a target of a nefarious plot to discredit her and have her removed.

On Wednesday, 30 October 2013, at around 12.30 pm, commercial importer Luis Pestana was sitting at a table in the Europa restaurant in Bedfordview, Johannesburg. With him were two other men. One was Daniel François van der Westhuizen, a former police officer and now an investigator and 'handler' for Forensic Security Services (FSS), BATSA's and TISA's security service

provider. The other was Lt Colonel Hennie Niemann of the police Crime Intelligence division who was now working for the Illicit Tobacco Task Team. Niemann and Van der Westhuizen had known each other for a while and were working hand in hand.

Although Pestana may have thought he was only meeting with Van der Westhuizen and Niemann, he would have been wrong. Agents VIW and KID (codenames for FSS surveillance operatives) were hanging around the area, providing 'counter-surveillance'. Why a police Crime Intelligence officer of such senior standing as Niemann would even require 'counter-surveillance' is hard to say. Moreover, the meeting was held at the request of Niemann. FSS had then set it up. Van der Westhuizen, no doubt following a habit from when he had been a policeman, duly recorded the entire conversation and submitted a report to his FSS bosses, preserving the details of this meeting for posterity.

Ostensibly, Niemann was interested in Pestana's gripes with the tobacco manufacturer Carnilinx. Apparently, the meeting with Pestana, as facilitated by Van der Westhuizen, presented an opportunity to gather insight into Carnilinx's operations. The patent conflict of interest that this situation presented to Niemann and Van der Westhuizen seems to have escaped everybody's mind. Van der Westhuizen was effectively representing BATSA and TISA, who were direct commercial competitors of Carnilinx. But let me leave that for now.

Pestana operated an import company known as Biaric Trading, which was based in the industrial area near OR Tambo International airport at Kempton Park. Carnilinx was apparently a client of Pestana, which had imported filter rods for use in the production of cigarettes from suppliers in Zimbabwe. However, the true value of the filter rods wasn't accurately declared to SARS and, as a result, a lower duty was paid on the imports. SARS had bust Pestana for this and he found himself in somewhat of a pickle. He was in for almost a million bucks! Pestana had another little problem: this was presented to him by the attorney, Belinda Walter, who had approached him in 2012 purporting to act on behalf of Carnilinx from time to time. It was a photograph of him illegally skipping a red traffic light.

The fact of the matter was that he was facing serious investigation and the prospect of penalties amounting to some R600,000 from SARS. On top of that there was a big traffic fine and possible arrest since he hadn't paid the fine yet. 'Not a problem,' Walter had told him. 'Work with us and we will help you

out.’ Pestana alleged further that in return Walter had required him to depose falsely to an affidavit that would implicate the SARS investigator Moli Khumalo in allegations of corruption. According to the lawyer, Khumalo had to be ‘removed’ from tobacco investigations.⁴⁴

Khumalo had been involved in several inspections and raids in the tobacco industry, including some at Carnilinx. On 15 June 2012, SARS conducted a search and seizure operation at premises in Muldersdrift, which led to the discovery and seizure of cigarettes to the value of R17,500,000. The seizure consisted of 956 master cases of the brand Derby, 19 of Mega, 355 of Dullah’s, 672 of MC Navy, 432 of Premium and 300 of Seville. In comparison with the small stuff that the Illicit Tobacco Task Team could claim to have seized, this was a significant bust. But it was also Khumalo who was able to link the transactions to Carnilinx and it was she who had engaged Carnilinx on the issue. As a result of this criminal case, Khumalo had commenced with the process of having the SARS-issued manufacturing licence withdrawn from Carnilinx. This would have shut down their manufacturing plant pending reapplication and would likely have led to higher guarantees and stricter conditions imposed upon them by SARS.⁴⁵

Khumalo knew Niemann and Chris Burger of the Illicit Tobacco Task Team. They had all worked together on the odd tobacco-related cases before. They were colleagues, civil servants and, on the face of it, were supposed to be working together to combat crime, in particular crimes that manifested in the tobacco sector. One would have expected that they would look out for each other. Burger should have been the first to pick up warning signals that Khumalo was in peril. For on 3 September 2013, Walter put a proposition to Burger in a text exchange, ‘What happens if we can show Moli took furniture and fridge from a tobacco company without paying for it? When it was being liquidated.’ Burger’s response was not to ask for the evidence so that he could process it through formal channels. Instead he asked the lawyer something odd: ‘Anonymous to sars anti corruption?’ – suggesting that Walter lay a complaint anonymously with SARS’s anti-corruption unit against Khumalo.

Walter then explained further: ‘Guys willing to give affidavits. And they will go take photos of where it’s standing. In her son’s place.’

Then Burger gave the go-ahead. ‘Ok get it. H will run with it.’ The ‘H’

referred to was their codename for Niemann.

Walter's reply: 'Thanks ... I can't let an investigation into Moli take so long my clients are harassed by her.' Walter then told Burger: 'Luis Pestana will give me an affidavit ... We just want to first get photos.'

Some days went by. On 17 September 2012, Walter had another ominous discussion with Burger. It is clear from this that she wanted Khumalo out of the picture. In answering the question why he had to ensure that Khumalo did not attend a specific meeting, the lawyer stated: 'They will target her ... They hate her ... they see her as the root of their problems.' The 'they' in this case was of course Carnilinx.

Later on, in the afternoon, the conversation continued. Walter asked Burger: 'Do we help her or sink the bitch ... do I carry on with matters that will hurt her career?' By this time, Walter seems to have developed an affinity for some of the Carnilinx directors. 'And I can't help liking them – especially Kyle [Phillips] and Adriano [Mazzotti]. They have their own new "political" connection.'

Burger warned the lawyer: 'Be careful. Got info their strong arm boys same crowd that knocked Brett [Kebble].'

Walter: 'I know. They told me ... Nothing new to me. But they are likable ... But it's obvious Moli has a personal thing against him. That pisses me off.'

The very next day, Walter communicated with Burger early in the morning. She dropped a bombshell of an admission to Burger. 'Carni[linx] don't have proper acquittals. Not sure if we have baffled Moli enough ... Will explain to you when I see you.' What she meant was that Carnilinx did not have proper SARS acquittal documents, which meant that Khumalo's case was spot on and could have been pretty much completed on this day, provided Burger assisted her with this bit of critical information. But he did no such thing.

The very next day, Burger and Walter chatted again. This time, the attorney was even more explicit. 'I think I have created enough paper trail and evidence to win in a court on stamp issue and the Muldersdrift case. Moli has fucked up those issues and it cannot be fixed by obstructive measures on her side.' Burger was at that moment handed the case on a platter. Walter had just admitted to him that, first of all, Carnilinx was unable to produce true and accurate acquittals to SARS; secondly, Walter had created a paper trail to intentionally deceive SARS in Khumalo's investigation, thereby confirming

Khumalo's concerns expressed about the attorney; and thirdly, Khumalo's attempts to have the licence of Carnilinx withdrawn through SARS would come to naught. What did Burger do? Zilch.

The following day, 20 September 2012, Walter communicated with Burger again. This time Burger told the lawyer: 'Moli complained yesterday with H [Niemann] about you. I told him to tell her not to obstruct the brands, the state advocate, taking heat off her etc. as we discussed. He will send the "message".' This was a significant statement. Burger was sharing details of Khumalo's progress with her investigation with Walter, even revealing Khumalo's expressions of frustration with the lawyer and then undertaking to get Niemann to remove Moli from the case.

What then happened was a terribly travesty of justice. On 9 October 2012, Walter sent an email to the SARS Customs Litigation unit while also copying various other members involved with tobacco investigations at SARS. This was in response to SARS's notice of intent to withdraw Carnilinx's licence. The email contained allegations against Khumalo stating: 'the attached affidavits relate to movable assets removed from the tobacco manufacturer's premises by Moli and which question the honesty, integrity, legitimacy and motives of various actions taken'. The email was accompanied by an affidavit in which the 'complainant' Pestana stated that 'I was contacted by the liquidator who advised me that a South African Revenue Services ("SARS") employee wanted various of the movable assets already purchased by Biaric. I know Moli as involved in cigarette industry investigations. I was concerned that if Moli's request for goods was denied that I would face future undue and unfair harassment by Moli.' The affidavit ended with: 'I respectfully submit that Moli used her position to exert undue influence to benefit unjustly from the receipt of the movable goods.'

On 10 October 2012, in reply, Khumalo's direct manager at SARS recorded in an email: 'Moli is allocated as the lead investigator of this project and all the criminal investigations were done by her ... At some stage in the process (I am not sure of the date) Moli informed me that she would like to buy some of the office furniture of a tobacco manufacturer from the liquidator. I informed her that I am of the opinion that it is not a good idea. Moli however responded that she do not agree with me, for she will offer the liquidator what the value

of the items are and she is not expecting any favours or special treatment and that anybody can make an offer to any liquidator which the liquidator then can accept or decline ... Moli then proceeded with her offer and purchase and also submitted an offer on behalf of her son-in-law. I am not sure of the exact details of the transaction, but she informed me at some stage that her son-in-law made the payments to the liquidator and arranged for the removal of the furniture purchased. This was approximately late last year or early this year ... The attorney, who lodged the complaint, is representing Carnilinx with regards to the investigation currently conducted by this office as well as the various Customs applications at head office ... In the course of the interactions with Carnilinx, it has come to the attention of this office that the individuals associated with Carnilinx want “to take Moli out” or “at least get her out of SARS”. Pestana is of questionable reputation and as far as the valuator goes, I am of the opinion that his actions in the process of valuation and selling the manufacturing machines raised some concerns with regards to his objectivity in this matter.’

What then followed was a tragic sequence of events involving a disciplinary process against Khumalo. Notably, it emerged that Pestana, the complainant, had never actually met or interacted with Khumalo, against whom he was laying a complaint. His affidavit was commissioned and certified by Walter herself. Khumalo, in reply, accepted having acquired the furniture and was open about its origins. She had never kept her intention to acquire the furniture a secret but had informed her line manager. Her affidavit was also accompanied by proof of payment for the items, contrary to the allegations made by Pestana and Walter. Khumalo called the liquidator who testified that the goods were up for sale to anyone at the price that had been set by the valuator. She had put her son-in-law in touch with the liquidator, and he and Khumalo received no special favours and were entitled to buy the goods on offer. On 5 June 2013, after the SARS disciplinary, she was suspended without pay for a period of twelve days and received a final written warning. It was recommended that Khumalo be moved to a different focus area from tobacco-related cases.

The consequence of this to SARS and the taxpayer was that the fiscus lost millions in revenue as a result of the inability of SARS to see through the Muldersdrift case meaningfully. The fiscus lost further underpaid excise duty running into tens of millions as a result of the ability of the true offenders to

continue trading. All the criminal cases on which Khumalo had worked did not advance meaningfully within the police or prosecuting authority after that. Khumalo and her family suffered too. Above all, it is clear to me that justice wasn't served at all. Instead, it was undermined by the very people who should have upheld the law. In August 2014, I had put all these facts, and more details which I am unable to disclose publicly, together in a detailed report and submitted this to law enforcement agencies, various internal SARS processes overseen by external counsel, and audit firm KPMG's forensic division. Not a single one of them has ever raised this matter, nobody apologised to Khumalo, and no one has sought to hold 'H', Burger, Walter or anybody else involved to account.

This story didn't end here. I would later, in 2017, get the opportunity to communicate directly with Pestana. By then he had turned whistleblower and was behind a leak of massive amounts of data on Twitter and on the Internet, which implicated TISA, BATSA, FSS and the Illicit Tobacco Task Team in a range of serious criminal activities. In perusing this data, I came across the reference to the Bedfordview meeting in October 2013 between him, Niemann and Van der Westhuizen. This led me to make contact with him and, as a result, I asked him questions about Khumalo's matter. He told me that he had attended three or four meetings in Pretoria in 2012 which were all chaired by Walter. Several local tobacco manufacturers also attended. According to Pestana, Walter said to him at the last such meeting that 'Moli is a very bad person' and that 'I [Pestana] must make an affidavit against her [Moli] for corruption.' He continued: 'Many others agreed that taking Moli out of investigations would help their cause.'

He went on to confess that at that point in time he knew nothing of Khumalo, had never met her or dealt with her in any manner or form at all. About Walter, Pestana said to me: 'She assured me things would be much better without Moli and I should make an affidavit.' He confirmed to me that contrary to Walter's assertion to SARS that he was a client of hers, he never was. He went on to state that he was 'convinced and manipulated' to depose to the affidavit against Khumalo. He then explained how Walter had compiled two affidavits in October 2012. 'The one for me was given to me to sign. She was very devious and manipulative.' He went on to explain how he had purchased loose assets of a liquidated tobacco company that had gone bust in

2012. According to him, the liquidator handled all claims, purchases and tenders. He agreed to Khumalo's son purchasing the goods. He then explained that when he attended the disciplinary hearing of Khumalo at the SARS offices in Pretoria in 2013, this was the first and only time in his life he had met her in person. And then he said: 'I regret ever testifying against Moli and I apologise to her and her family for all the trauma they endured.'⁴⁶

5

Soldier and spy

On 16 January 2009, a joint statement was issued by the South African Police Service (SAPS) and South African National Parks agency (SANPARKS). It was titled ‘Syndicate busted for poaching rhino horn’. They announced that, during a joint operation, they had arrested and charged eleven suspects in connection with the poaching of black and white rhino. The statement went on to explain how, over the years, there had been ‘sporadic slaughtering of rhinos in national and provincial parks and private game reserves in the Mpumalanga, Limpopo and North West Provinces’. It also set out some details about the members of the syndicate who had been arrested: five Mozambicans, three Chinese men (two Cape Town-based businessmen and a medical doctor from Bruma Lake), two South Africans and one person of unknown nationality. The team had recovered two automatic AK-47 rifles, four .303 rifles and R16,000 in cash. At the time, the suspects had all been charged with illegal hunting of game within national parks, unlawful possession of and dealing in rhino horn, and unlawful possession of firearms. They had already appeared in courts around the three provinces. Their individual cases would soon be consolidated into a single case brought before a single court. The promised ‘single case’ before a ‘single court’ never materialised, however. Evidence disappeared, and ultimately so did the police case docket. The prosecution never saw the light of day.

Even this sordid tale of poaching would find itself linked to the tobacco industry. One syndicate member, identified by SAPS as Mike Peega, happened to be a SARS official at the time of his arrest. As a result he lost his job there. Prior to his employment at SARS, Peega had been a special forces soldier in the South African National Defence Force, based in Phalaborwa. On the strength of his military background, he joined SARS in March 2007, and was

soon deployed in a small investigative unit, at the time known as the Special Projects Unit, later in May 2008 renamed the National Research Group. This unit was closely involved in investigating high-risk cases and organised crime syndicates. Specifically, from its inception, it made significant inroads by leading other SARS units and the SAPS to uncover large quantities of smuggled tobacco and cigarettes and arrest thieves who pilfered confiscated cigarettes from state warehouses.

In early December 2008, like most other SARS officials, he requested permission to go on annual leave. This was approved. He was expected back at work in early January 2009. But he never turned up for work, and his worried colleagues spent many hours trying to find him. Eventually they resorted to calling hospitals, morgues and the police to help find the man. He seemed to have just disappeared. Eventually, SARS was notified of Peega's whereabouts. He had been arrested on Christmas Eve and had remained in detention since.

The details of the events that led to his arrest were soon made known, when the SAPS released a statement in which Peega confessed to his involvement in poaching. At no stage did Peega notify his employer of his predicament.

Brits CAS 697/10/08, the official police case docket, shows that the investigation had already started in October 2008 and that the cops were by then hot on the heels of the poaching syndicate. Investigating officer Captain Herman Lubbe, in his affidavit, explained how, on the night of 24 December 2008, he was following up a lead from an informant, who had tipped him off to be on the lookout for a red Toyota Corolla with a specific registration number. Lubbe was in the vicinity of Vaalwater when the very same Toyota drove past him in the opposite direction. He followed it. The car stopped near a game farm at about five on the morning of 25 December. Lubbe asked his informant to keep a watch on the car, and to let him know the moment it moved again.

Lubbe and his team moved to an area nearby, watching all exits and entrances, waiting for the red car. At around eleven that same morning, it came driving past their unmarked police vehicles and turned into a nearby village. It was carrying four occupants. Two of them must have stayed behind because when the car left the village, it only contained two occupants. Lubbe contacted the Bulgeriver police by radio, since this was their area of

jurisdiction, requesting them to intercept the red Toyota. Soon enough, Inspector Mafeto of the Bulgeriver police notified Lubbe by radio that they had stopped the car, and managed to arrest one of the occupants, the other having run off.

Upon Lubbe's arrival, he took over the case. The arrested person identified himself as Mike Peega. In his wallet, Lubbe found Peega's bank cards, driver's licence and a SARS identity card. When the vehicle was searched, another wallet was found, with more identity documents and the bank cards of other people. When asked who the man was who had run away, Peega told the police officers that his name was 'Washington'. A further search of the vehicle revealed a large axe, still bloodied, a .303 hunting rifle with telescope, and 11 rounds of ammunition. The ammunition had been crudely altered with the points of the bullets cut flat, presumably to cause more harm to the rhino. Another find was a green camouflage overall and windbreaker: they were French army issue, which Peega had acquired when he was on training in France. They tied Peega to the scene of the crime directly.

Peega, according to Lubbe, claimed suddenly that he was an 'agent' of a person only identified as Lumba from the Kruger National Park. Explaining what had happened to the other two original passengers, Peega said they had been dropped off earlier and he agreed to take the police to the address. Upon arrival, the police searched the house and seized an AK-47 machine gun, a small axe and various other paraphernalia. Lubbe also checked with SANPARKS and came to learn that 'Lumba' denied any knowledge of Peega and confirmed that he was not an 'agent' of SANPARKS.

Peega was locked up for the night. The next day, Washington was arrested by Inspector Mafeto and finally identified as Washington Tlongwane. Peega now agreed to take the police to his home in Pretoria where he claimed another .303 rifle was kept in the boot of his car. However, when the police took him there, and opened the boot of his car, there was no .303 rifle. According to Lubbe, Peega seemed very surprised at this and couldn't explain what had happened to the gun. However, a magazine belonging to a .303 rifle had been left behind in the car's boot. When interviewed, Peega's girlfriend, who had been at home all along, disclosed that two men, one known to her as Josias, had been there the day before to remove the rifle.

Peega remained in custody after his first appearance in court. On 13

January 2009, in a meeting with Lubbe's team, Peega admitted finally to being a SARS employee. It seemed that he wanted to cooperate and tell the cops his story. He signed and dated each of the eight pages of his confession, along with ancillary documents and waivers. Two police officers then signed the same pages in his presence.

Later, during his disciplinary hearing at SARS, Peega claimed under oath that he didn't know Washington Tlongwane, and only 'caught a lift' with him, a stranger, supposedly to go to Phalaborwa. This doesn't square with the inconvenient facts of the AK-47 and the different sites where the rhino were hunted, the .303 rifle with Peega's fingerprints on it, the magazine in his car at home in Pretoria, and that the Toyota was travelling in the wrong direction. Peega failed to sustain his case at arbitration before the Commission for Conciliation, Mediation and Arbitration (CCMA). He lost before an independent advocate in charge of his disciplinary hearing at SARS, and he didn't succeed when he appealed. The case was heard before a second external advocate. He then lost his job at SARS.

As for the criminal case, it was in the end provisionally withdrawn, contrary to Peega's later claim that he was 'found not guilty'. There was never a trial. Washington died in detention while awaiting trial. The case docket disappeared under mysterious circumstances, as did some of the critical evidence. The prosecution ultimately had to withdraw the case.

But Peega became a key proponent of the 'rogue unit' narrative when in February 2015, sitting alongside Belinda Walter and Hennie Niemann, the former Illicit Tobacco Task Team member, he spun a new story on national television during a supposed exposé of a 'rogue unit' at SARS. All three seemingly supported each other's new versions of events. This time Peega said he had actually been 'infiltrating the rhino poaching syndicate' 'on instruction' from SARS. And when he was caught by the police and SANPARKS, the people at SARS had supposedly 'disavowed' him. It was laughable, I tell you. He even shed some tears while revealing this new story. Walter and Niemann played along, saying 'what SARS did was illegal, and they knew it was illegal'.

All this was a sham, but the trio must have been rather convincing, since the experienced journalists who conducted the interview with the three were completely fooled. The documentary, aired on *Carte Blanche*, ended with a

question for Walter: ‘So were you an agent?’ After the predictable second’s pause, Walter, looking straight at the interviewer, responded, ‘I won’t lie about that, yes, I was.’ And that was it. No question about, agent for who? No questions about who she was an agent for. The documentary just ended there.

Of course, the three, then referred to as ‘brave whistleblowers’, had something else in common, which was unknown to the producers of the programme. Both Walter and Niemann worked for the Illicit Tobacco Task Team, both knew I had evidence implicating them and others in serious crimes, both by then hated me and saw me as a terrible threat, and all of them had sinister links to BATSA, TISA and FSS. Of all the protagonists in the so-called ‘rogue unit’ narrative, which caused so much damage to South Africa’s revenue and customs authority, these three were the most open and vocal manufacturers of these lies. And they all got away with it.

In retrospect, equally shocking for me is that, in early 2014, Walter actually went on a field trip with game rangers of the Kruger National Park and an audit firm that was apparently pitching for a contract to assist in curbing poaching of game there, and sent me photos of her posing next to a darted animal, saying how touching she found this experience. Yet almost a year later, there she was, sitting next to a self-confessed rhino poacher on national television, both singing happily from the same hymn sheet.

Peega shared something else in common with Walter and Niemann: tobacco. He had also worked for BAT South Africa, the Tobacco Institute of Southern Africa (TISA) and the private security company FSS as a ‘contractor’ and ‘agent’ in 2011 and 2012. After being dismissed from SARS, Peega hustled for a while, dabbling in all sorts of questionable activities. None of this lasted and every time he would find himself once again out of a job and without an income. His break came when TISA, BATSA and FSS decided to make use of his services. His brief was to investigate the illicit tobacco trade in Zimbabwe. FSS paid him an amount of R12,000 to buy an air ticket to Zimbabwe, mobile phones and airtime, communications equipment and travel expenses, and food for meals. On 20 December 2011 Peega travelled to Harare using his own passport and set up a spy ring. This included the Zimbabweans Cosygene Dekeya, a former military intelligence operative, Edmore Muronzeroi and a few others.⁴⁷ The spy ring slowly took shape and in the end it consisted of eight members. This little industrial espionage ring seems to have operated for a short while, until disaster struck.

What exactly happened is not clear but Peega decided to leave Zimbabwe in a hurry and made a dash for it. I was told that he made an urgent call to a friend one day, saying he was stranded with no means of transport or money, and asked that he be fetched at the border town of Musina. The friend, then still working at SARS, would later write a report on the event, setting out in detail precisely what Peega had told him. Apparently Peega explained that he was part of a group of ‘agents’ who had gone to Zimbabwe to ‘infiltrate a syndicate’ that was allegedly involved in the ‘dealings of illicit activities in tobacco and cigarettes’. Peega said the group of ‘agents’ had been in Zimbabwe a short while when they were arrested by the notorious Zimbabwean Central Intelligence Organisation (ZCIO). Peega then claimed that he had managed to escape after the whole team was put into custody for interrogation purposes and he ultimately ‘jumped’ the border back into South Africa. Peega also stated during this urgent call that he was working for TISA as an ‘agent/investigator’ and that the ‘group of agents’ were in Zimbabwe on a ‘company project’. The friend declined to get involved and said that, as much as he wanted to help, he would not be able to do so because it might get him into trouble at SARS. So Peega had to make other arrangements. He was soon back on his feet in South Africa, *sans* passport and re-entry stamp into the country.

Peega’s Zimbabwean associates, Cosygene Dekeya and Edmore Muronzerei, weren’t as lucky as he was. They didn’t get away. In November 2012 they appeared before the Mbare Magistrate’s Court, charged with offences under the Private Investigations and Security Guards Control Act. The prosecutor, Austin Muziwi, said this trivialised the offences they had committed and subsequently ordered the Zimbabwean police to carry out further investigations with a view to charging the pair with espionage.

The *Zimbabwe Independent* soon broke the story in November 2012. ‘British American Tobacco Zimbabwe Holdings Ltd (BATZ) is allegedly spying on its competitors and had adopted an industrial espionage strategy a few years ago, an internal document seen, reveals. The document titled: Competitor Strategy Document, authored by a K. Zvaita, outlines BATZ’s key objective as to have a formalised market intelligence strategy. BATZ has denied this is the case. The allegations against BATZ come after it emerged this week its competitors – Kingdom, Savanna Tobacco, Breco (Fodya), Cut

Rag, Trednet and Chelsea – had lost cigarettes valued at R100 million to armed hijackers in just over a year. The cigarettes were mostly destined for South Africa. None of BATZ's products have been hijacked, prompting its competitors to believe the largest cigarette manufacturer in the country was involved in industrial espionage and possible sabotage, a charge BATZ refutes ... According to the document seen, BATZ devised an espionage strategy as far back as March 2006. "The thrust of this document is to enable BATZ as an organisation to have a formalised espionage strategy which enables the organisation to be proactive and not to be reactive to competitor movements, activities and strategies and not to be caught unaware," the document reads.'

The newspaper went on to say: 'As part of its strategy, BATZ set out to identify the company's key contacts, people who could divulge strategic information and get sound marketing intelligence. "This requires the design, implementation and management of an effective Marketing Intelligence System (MkIS). An MkIS ensures an ongoing information flow that enables the business to be reactive to competitor strategies and not to be following competitor tails," it adds ... The document does not, however, list hijacking as a possible strategy to beat competition. Local tobacco industry players say the Tobacco Institute of South Africa contracted a security firm, Forensic Security Services, to monitor Zimbabwean cigarette manufacturers, whose brands are giving that country's products stiff competition. The security firm, owned by former apartheid military operative Stephan Botha, is said to have recruited spies within the workforce of Zimbabwean cigarette manufacturers. The spies, according to sources, supply consignment export details, enabling the cartel to track, intercept and highjack Zimbabwean cigarette consignments. FSS is said to have engaged an unnamed business tycoon who owns one of the largest courier service companies to co-ordinate the spies and their payments. The tycoon's trucks have also been hijacked in what are feared to be inside jobs.'⁴⁸

The document raised the ire of the executive chairman of one of the local cigarette manufacturers, Adam Molai of Savanna Tobacco, whose name had been included in the *Zimbabwe Independent* report. His company had scored a fantastic deal that gave the Spar retail chain the exclusive right to sell the Peterboro brand in South Africa. Molai was quoted as saying how 'shocking' it was that South Africans 'were infiltrating local security organisations to commit economic crimes and bleed the economy ... It is deplorable: you

cannot have foreign agencies working for our competitors to destabilise our operations in Zimbabwe. We hope our authorities will ensure that issues of this nature are dealt with accordingly.’ Molai would later say: ‘There is very hot “cold war” out there. The big companies like BAT want to maintain a monopoly of the tobacco industry but we as locals are saying that must not happen. You need to be made of steel to survive in this industry.’⁴⁹

Investigators appointed by Molai subsequently found evidence from 2012 that ‘a South African private company ..., Forensic Security Services (FSS), headed by one Stephan Botha, gives orders to the local police on how to investigate Savanna ...’ According to the investigators, ‘FSS produced weekly reports giving detailed information on Savanna members of staff, meetings held, all the cars that go in and out of the company premises – complete with number plates – and times of entry and departure, cartons of cigarettes taken out, visitors to the firm and even details on recruitment. The informants include named Savanna insiders, identified undercover investigators who frequent the premises and even vendors stationed at the main gates, who the reports say are paid \$2,000 a month for gathering information.’⁵⁰

On 13 November 2012, just days after Dekeya and Muronzerei’s appearance before the Zimbabwean court, the Illicit Tobacco Task Team’s Chris Burger had a chat via WhatsApp with his spook, agent 5332. ‘An article that appeared in a government controlled newspaper, written by a journo that was told by the CIO what to write using words like “mogul”, based on a “confession” by two men that was tortured in Chikurubi [Prison] for two months until they “confessed” the allegations made by Adam [Molai of Savanna Tobacco] and other clients in order to discredit a company (and RSA efforts to combat illicit trade from Zimbabwe). Enjoy the moment.’

Agent 5332 replied, ‘It’s not impossible.’

Burger to 5332, ‘I will bring you articles. The CIO protects the Zimbabwe economy and will do anything to get foreign currency vis-a-vis the sanctions imposed on them. I am responsible for the pain those two had to endure. Fuck.’

The agent asked why. To which Burger replied, ‘They identified them via our operations, and arrested them.’

The spook, with a bleeding heart, retorted: ‘Oh shame.’⁵¹

As an addendum to the story of Peega, I should mention that in 2016 I had a chat with Adriano Mazzotti of Carnilinx. In passing, he mentioned that he had ‘employed’ Peega for a while to do ‘security work’. Later, in 2018, I asked Mazzotti outright whether Peega had been on Carnilinx’s payroll.

He then told me that Peega had arrived at Carnilinx one day in late 2014, he couldn’t exactly remember the details of how and through whom, and apparently proposed to Carnilinx that he become their ‘head of security’. Mazzotti confirmed that Peega also claimed he could be of assistance against me and SARS, should Carnilinx be ‘interested’. Mazzotti then told me that, after giving him a few odd jobs here and there, paying him ‘a few thousand’ in cash, he realised Peega wasn’t useful to them. Besides, his good friend Julius Malema told him to stay ‘far away’ from Peega.⁵² Around the same time, in late 2014, Belinda Walter also flipped over to Carnilinx’s side again, this time working closely with their attorney ultimately to take on TISA, FSS and BAT in court.⁵³

So, from starting out as a SARS investigator, Peega had moved right across the spectrum of the tobacco industry, jumping from one competitor to the other.

PART 2

THE WARRING PARTIES

6

Highway Hennie

Allegations of undue influence over law enforcement officials exerted by BATSA or TISA and the private security company FSS date back to the early 2000s, when they were made by Hennie Delport. Hendrik ‘Hennie’ Delport must count as a maverick among the trailblazers of the independent tobacco sector in South Africa. A pilot by training, he had to land his private aeroplane one day on a highway during an emergency and thereby earned the nickname Highway Hennie. His flagship company, Phoebus Apollo Aviation, has been around for many years. His entry into the world of cigarettes actually came about thanks to BAT. Back in the late 1990s, Apollo Tobacco (Pty) Ltd held a licence to distribute several BAT products into several African countries, including their famous brands Dunhill, Peter Stuyvesant, Benson & Hedges and Winfield, and it did so through its associated aviation service, Phoebus Apollo Aviation.

Delport told me many years later that the relations between him and BAT fell apart around 1998 when Apollo Tobacco started to manufacture what was then an unknown brand of cigarettes called Exclusive, which Delport exported to countries in Central Africa. In the same year BAT Malawi shut down its factory, partly blaming him for this.⁵⁴

Delport was among the very first to recognise and take advantage of the shift in the market of smokers who were prepared to buy lesser-known brands at cheaper prices. He undoubtedly presented the big boys’ club with a potential commercial threat. He soon came under the scrutiny of SARS, the South African Police Service, the National Prosecuting Authority and the Asset Forfeiture Unit. First the taxman came for him. Around 2000, audits and investigations were launched into Phoebus Apollo and Highway Hennie.

These would ultimately lead to criminal charges, asset forfeiture preservation orders, several court cases and a criminal case that had yet to go to trial at the time of writing.

Highway Hennie didn't take to the investigations lightly. In 2002, he brought a successful application before three High Court judges to obtain search and seizure orders against BATSA's Johannesburg and Pretoria offices, and against the private security company FSS and SARS. His application to the judges spanned 95 pages. He accused BATSA of colluding with officials of the tax authority and private detectives in what he called 'industrial espionage'. He alleged that BATSA had conspired with certain SARS officials and had also hired detectives from FSS, who in turn had used bugging devices, illegally planted on his premises, to intercept confidential information about his operations. He also set out in detail, complete with supporting affidavits by those concerned, how two private operatives had flipped over to his side, explaining that they were hired by BATSA to spy on Apollo's operations, sometimes even posing as police officers. Their motive was they weren't paid what was promised them by BATSA.

In an affidavit, one of the operatives confessed to having attended a series of meetings, beginning in March 2000, organised by BAT and officials at SARS. The meetings were allegedly held to discuss information gathered from a phone-tapping operation carried out by the operative on behalf of BATSA and FSS. According to the operative, Apollo's phones were bugged for as long as two months at a time and the tapping took place on at least three separate occasions. He even provided copies of some of the recordings as annexures. What Highway Hennie was in effect saying was that BATSA, through its hired security service arm FSS, had first broken into his offices, a crime in itself, and then planted interception devices to secretly listen in on his communications. Following this, according to Delport, the FSS operatives gave this illegally obtained information to BATSA, which, in turn, arranged to meet with its pals over at SARS in a bid to take down Apollo Tobacco.⁵⁵ This information is astonishing, considering who was involved. There was the behemoth BATSA, the controversial security service FSS, and the usual former policemen or army officers or intelligence agents involved in spying, first working for the one side, only to flip-flop later to work for the other side. What also came to light was the evidence of undue influence exerted on law enforcement officials and agencies to direct their attention to the commercial

competitors of the established tobacco firms. This pattern, involving similar features and the same role-players, would repeat itself on countless other occasions, virtually year after year.

I find it most concerning that none of the agencies or their officials ever thought through the wisdom of their proximity to and involvement in 'joint actions' with BATSA, TISA or FSS. In fact, this never seems to have perturbed any of them in any manner or form, except for SARS. It makes sense to me now, in hindsight, why SARS was never really part of the Illicit Tobacco Task Team. It also makes sense why I was so hated by officials and operatives of the task team and why they would spend so much time trying to discredit me and other SARS officials, and ultimately became openly hostile towards us. It should also explain why I gave an instruction to people in the units I managed to stay clear of any action that could give rise to their being accused of working hand in glove with TISA, BATSA or FSS.

Soon after the taxman had arrived at his doorstep, the SAPS and NPA came for him too. The upshot was that eight people in all, including Highway Hennie, pleaded not guilty in the Pretoria Regional Magistrate's Court in 2004 to over 7,200 counts of tax fraud amounting to more than R264 million, racketeering and contravening customs and excise and VAT legislation. At the commencement of the matter, over 60,000 exhibits were contained in the police docket and several witnesses from Malawi, Zimbabwe and Zambia had been flown to South Africa to come and testify in the matter. According to the prosecution, the eight accused had conducted an unlawful enterprise involving the smuggling of cigarettes to obtain tax benefits or avoid paying tax. Highway Hennie was released on R500,000 bail. The trial itself was a marathon that would last for the next five years.

In March 2007, mid-trial, it was the turn of the Asset Forfeiture Unit (AFU) to swoop on Highway Hennie. In what was then probably one of the AFU's biggest preservation orders ever, the unit took possession of a private helicopter, three Land Rovers, a Jeep, a boat, a quadbike and a pair of jet-skis, and assets valued at over R370 million belonging to 13 individuals and 36 companies. Auditing and consulting firm KPMG was appointed curator to oversee the preserved businesses and assets and administer them. The asset forfeiture order remained in place throughout the trial that was then in progress. If Delpont wished to spend money or make business decisions, he'd

have to get permission from Dean Friedman and Allen Few, the curators appointed from KPMG. If Delpont wished so much as to pay for his lawyers, it was up to Friedman and Few to consider the bills and make payment.

In 2012, in a surprising twist, Highway Hennie and his co-accused were all acquitted by Magistrate Adriaan Bekker on account of a technicality. The merits of the testimony given and the evidence presented before court were never ruled on. The state responded by taking the matter on review in the High Court. Around this time, whilst the case was on review, another scandal broke around Highway Hennie. It was reported that the deputy communications minister, Stella Ndabeni-Abrahams, was one of the directors of Phoebus Apollo Aviation. This came to light when *Beeld* newspaper revealed that former President Nelson Mandela had been flown to Mthatha in a McDonnell Douglas DC-9 hired by Phoebus Apollo. The company made the aircraft available to the South African Air Force, which used it 'in many operations', including transporting troops to the African interior, and carrying cargo and VIPs. Brigadier-General Xolani Mabanga, a spokesperson for the Department of Defence, was quoted as saying that information regarding the use of the aircraft by the air force was 'classified'.⁵⁶ This little storm blew over rather quickly, but it did possibly explain efforts by several prominent government officials, politicians and VIPs to ask SARS to 'lay off' and 'let go' of the case against Delpont and his company.

In 2013, following the challenge by the state, two High Court judges, Ephraim Makgoba and Pieter van der Byl, set aside the regional magistrate's ruling and ordered that the case be referred back to the regional court and the criminal trial proceed.

I would meet up with Delpont in 2018 and had a very interesting discussion with him about the time when the AFU and KPMG had taken control of his assets. At one point, soon after the AFU action in 2007, Highway Hennie needed legal advice and assistance. He turned to a Pretoria-based law firm, Steyn Kinnear Inc. Within days of the asset preservation, he was at their offices in Hatfield, meeting with lawyers Johan Steyn and Rose Kinnear, wanting them to assist him in his legal matters. 'I was sitting there, and in walked this blonde young lady. And they said to me she will be handling my case. Her name, they said, was Belinda.'

Back then, Belinda Walter was a candidate attorney, soon to be admitted to the Law Society and High Court as an attorney and officer of the court. She did her mandatory period of articles with the firm of Steyn Kinnear. I listened as Highway Hennie told me what happened next. ‘From that day on, Belinda would handle everything between me and KPMG. She would invoice them, they would pay her, she would work with them. I always had a feeling there was something about that Few guy and Belinda.’

Around the time I met Delpont, News24 broke a story which seemingly confirmed what I was told by him. ‘News24 has learnt that [Allen] Few [of KPMG] briefed Walter as far back as 2008, while she was a candidate attorney at law firm Steyn Kinnear Inc. Her brief on the Delpont case continued when she became a qualified and admitted attorney and started her own firm and continued until as late as 2014.’⁵⁷ KPMG spokesperson Nqubeko Sibiyi told News24 that Few was employed by KPMG South Africa from 2001 to 2017. ‘Mr Few and, a colleague, Mr Dean Friedman, were appointed in 2007 to act as curators in a long-running asset forfeiture matter relating to various businesses. During the course of this engagement, Mr Few and Mr Friedman, in their capacity as curators, engaged Ms Walter, through Belinda Walter Attorneys Inc, to provide legal services,’ Sibiyi said. KPMG used various legal advisers over the years, including Steyn Kinnear Attorneys and Belinda Walter Attorneys Inc. ‘Belinda Walter Attorneys Inc. provided services during the period from September 2013 to January 2014. In April 2014, the curators formally terminated the services of Belinda Walter Attorneys Inc.’⁵⁸ Of course, I used the opportunity to clarify a few things with Highway Hennie. I was rather surprised to hear that Walter had actually worked for KPMG in the period September 2013 to January 2014, since this was during the time we had dated, and at no stage did she ever mention this to me. I was equally surprised that she had acted for Delpont at one time. This was absolutely new news to me.

After I left SARS in February 2015, out of the blue, Highway Hennie’s accountant and lawyer contacted me and asked to meet with me ‘in the interests of justice and that of the public’. Essentially, I got the sense that they were trying to determine whether I knew of anything untoward in their case that they could use to their advantage. I ensured that all our discussions were recorded and confirmed in writing.⁵⁹ I made sure they understood the rules of

engaging with me, which included that I would not discuss the case nor would I breach confidentiality. They accepted this. As it turned out, I wasn't able to assist them.

At some time thereafter, I was promised I would get the chance to meet Hennie Niemann, the former Illicit Tobacco Task Team member, who it was claimed wished to 'come clean'. Apparently, by then he had left the police, and joined up with a private security company, Bancroft, and was doing whatever such companies do in war-torn Somalia. Highway Hennie later told me that Belinda Walter also worked for the company and had joined Niemann in Somalia. But this 'coming clean' meeting with Niemann never materialised and I left it at that. What did happen was that my lawyers received a letter in 2017 from SARS, asking me to confirm whether I had agreed with Delport that his tax refunds were due to him. This was utter nonsense and my lawyers told SARS so. But SARS didn't want to provide me with the documents upon which they laid these claims, other than to refer to 'letters' on behalf of Highway Hennie.

So in 2018, when Highway Hennie and I finally sat down, face to face, I asked him outright about this. I wanted to see these 'letters', and read them, and I wanted to understand their origins. He and his accountant acted quite decently and gave me copies of the 'letters'. Apparently Walter approached him with a proposition, saying they must use the 'rogue unit' story against SARS. I smiled. I had seen this argument in a few other matters too. Among some people in legal circles, it had become known as the 'rogue unit defence'. 'Wow, Hennie? Really? So what happened then?' I asked. Between Delport and his accountant, the murky story emerged. According to them, Walter had agreed to 'consult' for Highway Hennie again in 2017. According to them, she authored the two 'letters' to SARS on her own, and sent them to SARS Commissioner Tom Moyane and others there, including the chief officer, Jonas Makwakwa. In these 'letters', Walter argued that the case against Delport was tainted because the 'rogue unit' was unlawful and the evidence in the case was therefore tainted. That the SARS unit in question had never actually participated in investigating Delport mattered not. The 'letters' were defamatory of me and others in the extreme.

I took Highway Hennie and the accountant through the 'letters' line by line. And then Delport made a startling admission to me. 'I never saw the letters when they went to SARS. I never authorised them. She did this on her

own.’ I was shocked. ‘Why would she do this?’ I asked. ‘What did she get out of this?’ To which Hennie replied, ‘I paid her. I paid her cash.’ I was flabbergasted. ‘How much did you pay her for this nonsense, Hennie?’ I asked. ‘R25,000. Per letter. In cash.’⁶⁰ I couldn’t believe what I was hearing. I asked, ‘Didn’t KPMG pay? Did KPMG or Few or Friedman know of this as curators?’ KPMG, after all, had terminated Walter’s brief and they were still the curators of Delpont’s assets. Walter would have known well as a lawyer, and as an officer of the court, that for her to take cash payments directly from Delpont, without KPMG’s knowledge and approval, would have been in direct violation of the asset preservation order. Never mind the nefarious content and purpose of the ‘letters’, this in itself was in clear breach of the AFU court order and KPMG’s role as curator. To cut a long story short, Delpont’s lawyers wrote to SARS, informing them that Walter was the author of the ‘letters’, stated that they were authored and submitted without Delpont’s authority, and that he withdrew them unconditionally.⁶¹ At least Highway Hennie was man enough to do the right thing.

After this, there wasn’t much else to say. I would hear from the accountant every now and then, who would always try to establish if I could help them, but in all honesty I wasn’t able to and really could not. I did, however, point out to them that considering what had come out in the open about Hennie’s former lawyer, this was perhaps an angle they should have pursued long ago. Way too much has been made in public about my supposed involvement in the case while I was at SARS. Truth be told, I played absolutely no operational role in the case whatsoever at any point in my sixteen years of service at SARS and, as manager of the unit that participated in the case, I made no decisions in the matter. With more than 80 projects on the go across the country, it was practically impossible to manage every one of them – and we had various levels of management layers.

I had thought that I had experienced the worst of unethical conduct by an attorney and officer of the court, but there was more to come. By chance, I received an email from a private investigator who asked me to have a look at a request from a potential client. The client, a former advocate, had written to him asking for advice. The advocate related that, back in 2009, as a young and upcoming advocate, he happened to accept a brief from KPMG’s Allen Few, who was instructed by the attorney Belinda Walter. His story is a tragic tale

and deserves to be told.⁶²

Few and Walter sought his services in connection with Highway Hennie's case. But the advocate soon became concerned with what he called the 'problematic relationship' between Few, Walter and the Delpont case. So concerned was he that he compiled a 36-page legal report, detailing his concerns, and submitted this to the Bar Council, the oversight body for advocates belonging to the Bar. The advocate requested permission to report his concerns to the NPA. In their wisdom, or not, the Bar Council forwarded the complaint to Walter for comment. It seems Walter never really dealt meaningfully with the merits of the issues the advocate had raised. At first, the firm Steyn Kinnear responded on her behalf. When Walter then replied, she counter-attacked the advocate by way of a 'formal complaint' accusing him of unethical conduct and sexual harassment and repeatedly calling him a 'pathological liar'. When I read through these documents, I found them very familiar. They were akin to the 'formal complaints' that had been issued against me and others in SARS by Walter.

Eventually the advocate was charged internally by the Bar Council and faced possible disbarment. He was also sued for R1 million for defamation, a claim that was never seen through to its conclusion. Both these matters remain unresolved to this day, almost ten years after the fact. Things became so unpleasant for the advocate that he eventually quit the profession and ended up overseas in an entirely new job.

Sometime afterwards, the Bar Council moved to hold a disciplinary against him, and called upon Walter to appear and testify. Some of the allegations she had made were so serious that they cast a huge shadow over the man's reputation: in effect, they had destroyed his career. When the day came for Walter to appear and testify, she apparently informed the Bar Council that she no longer wished to do so, as too much time had passed.

When the advocate sought help in 2018 from the private investigator, it was with the intention of returning to South Africa and challenging the allegations made against him. I eventually managed to make contact with him, and he gave me deeper insight into his plight. I came to discover that, years later, the man still feared Walter like the proverbial plague. He was clearly still traumatised by what had happened. His primary concern was the perceived influence Walter had over senior law enforcement and intelligence officials and that he believed this was a real threat to the safety of his family.

Needless to say, his 36-page complaint never reached the NPA and the matter died a silent death.⁶³ As I've said, it is a tragic tale of a life ruined.

Tribert Ayabatwa: Africa's tobacco baron

Like Highway Hennie, Tribert Rujugiro Ayabatwa is one of the first generation of independent tobacco manufacturers in South Africa though his empire extends right across the continent. A Rwandan by birth, his personal fortune was estimated in 2012 by *Forbes* magazine to be around \$200 million, with his tobacco empire in nine countries in Africa, the Pan African Tobacco Group (PTG), bringing in \$250 million in annual revenues. He has been giving the big boys' club a real run for their money on the African continent since the late 1970s. His story is a fascinating tale of genuine hardship, adventure, daring and controversy; a real rags-to-riches tale, with sorrow, tragedy, lost opportunities, brushes with the law, rebels and wars thrown into the mix.

Growing up under the remnants of colonialism in Rwanda, Ayabatwa was expelled from school at the age of 16. He had lost his mother at the age of 12, and, following his expulsion from school, he had to pretty much take care of himself. Clouds were busy gathering over Rwanda, so Ayabatwa fled to neighbouring Burundi as a refugee, seeing no future for himself in his home country at the time. It was in Burundi where he got his first job at a post office, and soon enough, with his wits and natural intelligence, he worked his way up the ranks. But he appears to not have been satisfied with this, so after studying French part-time, he secured a job at a petroleum storage facility where he stood in for the manager of the enterprise. True to the way entrepreneurs generally start off, he began to use his little savings to explore various other business ventures.

His first efforts were to buy a small truck, hiring a driver, and he was soon transporting goods and people for a fee. These experiences must have spurred

him on to achieve more, because he left the petroleum company, and went into business on his own. At the age of 29, he started a bakery, importing his own salt, wheat and flour. Around this time, there was a shortage of salt in Burundi, but ever the entrepreneur, Ayabatwa found ways and means of importing salt and as a result, he was awarded an exclusive salt-trading licence by the government. Despite the odds, he then moved into the gold trading sector, a move he would later describe as a 'life-long lesson' because he lost all his investments in the process. He had to start again, and so he did.

In 1974, at a time when the tobacco multinationals were undisputed masters of the trade worldwide, Ayabatwa began to import cigarettes from Tanzania into Burundi. Soon he found cigarettes rather profitable and began to focus more on this end of his business. Of all the so-called independents, Ayabatwa was likely the most far-sighted and ambitious. Already in 1978 he had switched from mere importation and began to manufacture his own cigarettes. In this sense, he must be recognised as the grandfather of independent tobacco manufacturing on the continent of Africa. He would later explain how this came about. 'My transition from trading to manufacturing tobacco products was facilitated by a combination of factors. First, importation was adversely affected by unreliability of supply due to either poor infrastructure or political instability in the region, making trade at times difficult if not impossible. Second, I had built an excellent relationship with Tanzanian suppliers who exposed me to manufacturing principles and encouraged me to start my own manufacturing venture. At first, the possibility of manufacturing seemed far-fetched given that making cigarettes is a highly capital-intensive process dominated by a handful of multinational corporations. Looking back, it was a daring step to even think about it, let alone enter manufacturing. Some people thought I was crazy to think an African could manufacture products. But I did. I took the risk and it soon paid off, beginning with my original Burundi enterprise, soon followed by the second venture, namely, my enterprise in the Democratic Republic of Congo (then Zaire).'

⁶⁴

At the height of the tragic events that struck Rwanda in the early 1990s, Ayabatwa put some of his money into funding the Rwandan Patriotic Front (RPF), which has been widely recognised for its contribution to bringing an end to the genocide. But as his empire was growing, disaster struck. Military man Pierre Buyoya became the ruler of Burundi through a coup d'état. In

1987, Ayabatwa was imprisoned for three years by Buyoya's government on charges of conspiring to overthrow the dictatorship. His entire tobacco manufacturing business was nationalised by Buyoya's regime and he lost everything. Ever enterprising, Ayabatwa managed to flee from prison in what he calls a 'daring night time escape', arriving in South Africa. Once again, he had to start from scratch in a foreign country.

At first in his new homeland, he dabbled with a company that was in dire financial straits. Later he set up Mastermind Tobacco South Africa (Pty) Ltd in East London in the Eastern Cape. He built up a manufacturing plant and produced what were then lesser-known brands, Yes and Forum, whose sales would increase significantly over time. In the early 2000s, the market was still mostly cornered by the big multinational brands, yet, slowly but surely, the brands that Ayabatwa produced began to gain a foothold in the markets of South Africa and other southern African countries. Ayabatwa, like Hennie Delport, Simon Rudland and John Bredenkamp, was a pioneer of what would later become known as the 'value brands' or 'cheapies'. But competing against the multinationals who had already established a massive market share over many years proved difficult. And, as I have often encountered in the world of entrepreneurship, sometimes corners were cut to gain some sort of edge in the market. And this would lead to Ayabatwa's difficulties with South African law enforcement agencies.

On 29 June 2005, the news broke. In a press statement, SARS announced that, following investigations and a complaint made by SARS to the South African Police Service, four people connected to a multimillion-rand scam had been arrested by the Scorpions. Three of the arrested persons were employed by Mastermind Tobacco. They were Jennifer Nanette Putter, Pascal Wiehahn and Carmen Daniels. The company itself, together with the arrested employees, was accused of having defrauded SARS of at least R48 million by falsely representing that certain consignments of cigarettes had been exported. Instead, they were sold locally. Because goods that are manufactured in South Africa and destined for export are zero-rated for VAT, this meant that the VAT collected on sales was pocketed by the company. Soon the amount of the fraud ballooned to about R60 million. Ayabatwa, at that time out of the country, was ultimately tracked down in the United Kingdom. A warrant of arrest was issued by the prosecuting authority and efforts were made to have him

extradited to South Africa to stand trial alongside the others. The charges included 25 counts of fraud relating to non-payment of excise duties, 25 charges of illegally exporting goods from a customs and excise warehouse, and 6 charges relating to the non-payment of VAT.⁶⁵

What followed was a protracted battle between the South African law enforcement authorities and Ayabatwa. He was ultimately arrested by the British police in 2008, but was then released into house arrest, pending the extradition case. In the meantime, he began to negotiate with the South African prosecuting authority from afar. This eventually culminated in a plea-bargain arrangement and hefty fines. He agreed to pay the sum of R57 million to the state, after having already paid R3 million upfront. He also agreed to a guilty plea on behalf of Mastermind Tobacco SA. All this was confirmed in 2009 by the East London High Court, which imposed a further R250 million fine, suspended for five years on condition that the R57 million was paid. Mastermind Tobacco SA was no more.⁶⁶

Having shown throughout his life that he is not a man to be put down easily, Ayabatwa took the South African experience on the chin. He would later explain how he viewed events as an opportunity to grow again. 'Seizure of my business proved to be an immense opportunity in that it expanded my horizon by forcing me to locate and operate in Africa's most developed and challenging economy – South Africa. If I could compete in South Africa I would succeed anywhere on our continent and even beyond.'⁶⁷ And that he certainly did.

By 2017, Ayabatwa's business concerns in Africa had grown massively and had expanded to include interests in tea plantations, a cement company, furniture manufacturing, housing developments, a shopping mall, printing, cattle farming, transport, and, of course, tobacco manufacturing. His empire, by this time, traded in more than half of Africa's 54 countries, as well as in the United Arab Emirates. The 'old man' (as some refer to him), the entrepreneur, the pathfinder for the independents, Africa's biggest tobacco manufacturer, had made it.

I consider it rather ironic that years after having withdrawn from the cigarette manufacturing business in South Africa, Ayabatwa would be the key to BAT plc expanding their alleged bribery network. As he was such a significant

player in the cigarette-making industry for so long, the big boys clearly needed an ‘in’ on Ayabatwa to deal with his ever-growing empire in the rest of Africa. The opportunity presented itself in a rather inconspicuous manner. The story of BAT plc’s obsession with Ayabatwa also provides the clue to why Belinda Walter, attorney at law and secret government tobacco spy, crossed the line and ended up, quite arguably, being bribed by the big boy, BAT plc, itself.

It all started in 2012. By then Ayabatwa had exited the tobacco trade in South Africa, but he still held significant cigarette interests elsewhere on the African continent and also required someone to assist him with his assets in South Africa. It so happened that he relied, among others, on Walter as his attorney.

One afternoon in August 2012, Derick Vosloo of FSS was having a text chat with Walter. They were contemplating how best to utilise her ‘services’ since she was already on the payroll of the Illicit Tobacco Task Team. Walter informed Vosloo that a meeting with Chris Burger of the task team had not gone well. It seems Burger wasn’t at first too keen to share her with FSS. ‘He [Burger] says that after all he said to you, he cannot be seen to endorse anything and whilst he is telling me I can go ahead – he wants to be seen as not knowing about it. I told him he is just f’ing confusing me.’

What she was saying was that Burger had reservations about her spying for FSS and the task team simultaneously, and if she wanted to do so, he wanted what spooks call ‘deniability’ – in other words, the ability to claim he didn’t know if the truth ever came out. Walter then threw the question into Vosloo’s court: ‘You, therefore, need to decide what you want to do.’

Vosloo responded, ‘He made a big stink about me doing that and now he saying this. I actually want him to say that he is not able to help you and that he would like me to try and help.’ Walter then spelt it out to Vosloo. ‘He [Burger] says he cannot endorse a private deal. All he said was if I strike a deal and I’m sure I’m safe – I ask him to deregister me.’ Burger’s colleague Lieutenant Colonel Hennie Niemann seems to have been consulted as well, because Walter then said to Vosloo, ‘He had a long discussion with Hennie today it seems as well. He was very cheerful when he got here.’

Then Walter said to Vosloo that FSS in any event knew of her role as spy for the task team, as did BAT, ‘I cannot be worse off ... You and Stephan Botha [of FSS] know who I am. BAT knows I’m playing with the boys ...’

She continued: ‘He calls you “Ore” [Afrikaans for “ears”]. I don’t know why – probably because you bugging everybody’s phones.’

Walter and Vosloo ultimately agreed to a meeting on the 29th of that month, which was to include a certain ‘guy from London’. But Walter was careful and asked, ‘Will the guy be fully briefed on the day? Please choose the location carefully ...’ Vosloo responded, ‘Stephan Botha are [*sic*] liaising with them ...’

Loyalty and decency didn’t seem to carry much value for the two. They clearly knew they were up to no good, because Walter responded by saying she had evidence to ‘cover’ them: ‘And what does Stephan Botha say about Burger’s split-personality? I have a WhatsApp [between Walter and Burger] that covers us – I believe. I won’t delete it.’ This suggests that Walter had some kind of text exchange with Burger that provided an excuse of sorts for their plan if it ever became publicly known. The meeting that was mooted at this time would, however, only take place a few months later.

On 3 December that same year, just after nine in the morning, Vosloo and Walter got down to the nitty-gritty. At first they discussed local manufacturer Yusuf Kajee of ATM, and were basically shooting the breeze with meaningless banter, when Vosloo switched tack and floated an idea that would later assume terrible force. What unfolded on this day was a story of the corruption of a witting and willing South African citizen by the witting and willing behemoth BAT plc, with the assistance of FSS and with the full knowledge of certain members of the Illicit Tobacco Task Team.

Walter started by asking, ‘When did you have in mind to meet? I’m fairly fully booked.’

Vosloo responded, ‘Wednesday, after lunch.’

To which Walter replied, ‘OK. That’s fine. No problem with that.’

Vosloo then explained that they were in the process of setting up a venue for the meeting. ‘We are securing location.’ At this time Walter and Vosloo again touched on Burger’s views. As Walter relayed: ‘This is what he [Burger] said: OK. I will send him WhatsApp that you can make own arrangements. Please refrain from any discussions re work done or relationship between us. Good luck.’

Clearly Burger had given the OK and knew well what was to unfold. Walter made sure that Vosloo knew this: ‘Did you hear from him?’

Vosloo: ‘Yes, he’s good.’

Walter: 'Are you happy now?'

Vosloo: 'Good news yea ... I mean, I had to get Burger's permission to chat with you.'

Then they turned to the business at hand. Vosloo began to explain the details to Walter: 'You just meeting guy from London. Are you good with that?'

As if straight out of a James Bond movie, Vosloo told her: 'I'll give you step by step instruction on where we meet and how you get there.'

She was obviously cautious at this point in time: 'Will you be with?'

Vosloo: 'You will see me on the way. I'm to cover to make sure no one will be watching.'

Still cautious, Walter asked: 'Do you trust him 100%?'

Vosloo didn't hesitate in answering: '110%.'

Soon after, Vosloo confirmed the day and time of the meeting. 'So it will be Wednesday morning 11:30.'

By this time Walter had warmed to the idea and seemed quite keen to attend the planned meeting with the 'guy from London'. 'OK. I will make sure I leave in time.'

Vosloo continued in the James Bond style: 'I'm going to ask you to take the Gautrain [fast railway service] to Sandton and then from there two more stops to see if you are clear.' This technique is often used by spies to check if they are being followed or watched. They hop on a busy train, and then get off at a few stops to change trains. If someone else, in this case Vosloo, had the task to conduct counter-surveillance, he would watch to see if anybody was following.

The instructions by Vosloo continued: 'We are prepping a location and will have it by 10:00 till 14:00. It's an executive suite. Don't worry it's clean ... swept I mean.' What Vosloo was assuring her was that the executive suite in the chosen hotel in Sandton had been electronically swept for listening devices.

And yet she remained cautious and sought further confirmation: 'And no recordings etc by London guy?'

Vosloo continued: 'My advice to you with these guys is clean and to the point. If you have something as a "taster" that could interest them. Just believe me on this one. If you have something serious that can sink Ayabatwa keep it close. Just a sample maybe to make him listen. Remember they are seriously

experienced at negotiations. So you have to be clinical, if you can show something ... anything that is valuable, but he also knows your role and knows you have extremely important role there where you are now.'

Walter clearly understood this: 'Ok. I hear what you are saying. Do they see it as me coming to them or them making an offer? Does he know my current situation with the players in market?'

Vosloo: 'Yes he knows what your role but not entirely, everything you say to me ... I swear I have not shared anything with them. But I know they want Ayabatwa.'

Walter didn't hesitate to sell out Ayabatwa: 'They are busy with massive expansion on continent. I'm not doing a sales pitch. This latest time you indicated he wanted to see me? So then he should do the talking?'

Vosloo: 'And he is very keen on meeting. I just wanted to say that they will pay to have his [Ayabatwa's] bottom.'

Mention of payment then seemed to spark Walter's attention: 'Is his interest only the 1 client?' – referring to Ayabatwa.

Vosloo: 'No, he also knows your position ...'

My guess is what Vosloo was alluding to here was that they were interested in more than just having Ayabatwa's 'bottom'. It so happened that around this time FITA had just started operations and Walter sat at the head of it.⁶⁸

The session in the executive suite seems to have gone off without any hitches, because on 14 December 2012 Walter reported back to Vosloo: 'The Pommy was ok – but he is a professional and knows how to draw information out people. I don't mind that. I picked a side and I must live with it. The Pommy sent me a mail and wants documents from my file on the old man [Ayabatwa] – but as yet our relationship etc is not defined. He said he wants me in the UK early January.'

Walter would later, in 2015, put pen to paper and explain these events in some detail. Apparently, in her version, the relationship with BAT plc came about as a result of Burger having disclosed her identity to FSS, who in turn then exposed it to BAT. This story is somewhat contradictory of the earlier discussions between Vosloo and Walter, but nevertheless she would later contend that, once exposed to BAT plc and FSS, she felt beholden to them. The executive suite was identified as having been at the InterContinental Hotel

in Sandton, Johannesburg. According to her, she and Vosloo entered the hotel elevator together and went up to the chosen suite. Vosloo had in his possession a card key which gave access to the floor and the suite. She confirmed that step-by-step directions to the venue were provided, which included photographs of different locations.

Upon entering the suite, Vosloo apparently introduced her to Colin Daniels of BAT plc. He was described as having displayed a cold and demeaning style, only asking questions and then briefing her on BAT plc's intelligence unit. He was the 'Pommy' of whom she had spoken. According to Walter, Daniels explained that there was a network of spooks across the globe, all earning around £50,000 per annum in bribes and being managed in this way by BAT plc.

Apparently, in subsequent discussions which included Burger, the idea was put forward that she would be paid offshore and that the money be accumulated and not 'utilised' immediately. At some point in time, Vosloo seemingly re-entered the suite with a packet of banknotes, which was handed to Daniels, and Vosloo then left again.

As regards the planned meeting in London that coming January, Walter sought advice from Vosloo: 'Do I tell him I will bring it with and I would rather first sort out where we stand with each other. It's confidential documents out of my file.'

Vosloo then gave her some more insight into the 'guy from London'. 'He is head of AIT'.

She wasn't satisfied with this. 'What does that mean – in English for the Blondie?'

Vosloo spelt it out: 'World wide ... In charge of Intelligence and operations worldwide fighting illicit trade.' AIT is the abbreviation for the Anti-Illicit Trade unit of BAT plc.

It seems, according to Walter's later confessions, that the London meeting did take place as planned. A booking was made at the Waldorf Hilton Hotel in Covent Garden. Walter was collected from Heathrow Airport by a driver arranged by Daniels and dropped at the hotel where she collected a door key card for room 205.

Walter spent three days in London, this time meeting with Daniels, being introduced to BAT AIT members Ewan R. Duncan and Allan Evans and a few others. She was debriefed in detail about who was who in the South African

tobacco manufacturing industry and she told them whatever was asked. Daniels was apparently difficult to talk to, whereas Evans was 'chatty' and friendly. Following these meetings, Walter began to provide insider information to both BAT plc and the Illicit Tobacco Task Team intermittently and with the full knowledge of the persons involved. Both the Illicit Tobacco Task Team and BAT plc paid her for the same information.

More covert meetings with BAT plc followed in quick succession in the next few months. Daniels and Duncan travelled to South Africa to meet her in Pretoria at a health spa, again at a hotel in Sandton, and at other venues.

By June 2013, Walter was back in London, agreeing to spend a day with the BAT plc people. At this meeting, according to her, it was agreed that BAT plc would pay her £36,000 per annum in monthly payments. The next issue on the table was how she was going to be paid by BAT plc. They decided to use the 'closed loop' system of Travelex cards. Walter accepted the first payment in cash on that day, an amount of £3,250, over lunch and even signed a receipt for this bribe.

On this occasion, BAT specifically asked her for insider information about Gold Leaf Tobacco Corporation and Carnilinx. It seems she was only too happy to give it all to them. From then on, the two parties began to use email drops, Skype, BlackBerry messages and WhatsApp texts to communicate. When Evans discovered she had kept records of these, he was apparently horrified and demanded she destroy them immediately. She obliged. From then on, they apparently used the free email services of Gmail: she would log onto a dedicated email account, type up reports and give the information, saving it as a draft, and then allow the BAT plc people to access the same account, extract the information and finally delete it. The password name used by them was 'Frank'.

At one stage they found the payment system they were operating a bit problematic. The one Travelex card that had been issued had a deposit limit of £3,000. This was easily solved by the provision of a second card. So she ultimately had two such cards with which to draw cash. BAT plc would deposit money monthly into these accounts, and she would go to any convenient ATM to obtain the cash in South Africa whenever required with all these transactions concealed from the authorities.⁶⁹ This seems to amount to a prima facie case of corruption and money-laundering in South Africa, and of bribery and money-laundering in the United Kingdom.⁷⁰

During several meetings with the media in 2014, BAT's South African managing director at the time, Brian Finch, denied knowledge of spying on rivals and of payments to 'agents'. BAT's London office refused to respond to detailed requests for comment by the media, only saying that it 'denies current allegations of any involvement in industrial espionage or any illegal activity'.⁷¹

I should add here what I came to discover much later. In 2013, contrary to what she may have told me later, Walter was not 'deregistered' as Burger and she had discussed. She remained simultaneously on the payroll of the Tobacco Task Team when she entered into this arrangement with BAT plc. Burger explained to her that she had never had 'legal cover' at any point. This seemed to dawn on them only then, and they had a fallout about this too.

8

John Bredenkamp and Masters International

Another of the ‘cheapie’ pioneers was John Arnold Bredenkamp. He too has a colourful story. Bredenkamp was born in the old diamond town of Kimberley, in the Northern Cape, famous for its big hole, once the world’s largest open cast diamond mine. His family moved to what was then known as Southern Rhodesia (Zimbabwe) when he was still a little boy. Tragedy struck Bredenkamp very early in his life, when one day as a child, returning home, he found his father had committed suicide after having shot and killed his mother. His sibling, a sister, had also been shot, but managed to survive. As a young adult, he became famous in his adopted country in the late 1960s as captain of the Rhodesian Rugby Union.

After school, Bredenkamp entered the world of tobacco when he got a job as a leaf buyer in Salisbury (Harare) for the international tobacco firm Gallaher Ltd. In 1968 he was transferred to Koninklijke Theodorus Niemeyer BV in the Netherlands, later part of Rothmans International, which then merged with British American Tobacco. In 1976 Bredenkamp left the Dutch firm and started his own outfit known as the Casalee Group of companies, registered in Antwerp, Belgium. There were rumours that the Casalee Group was involved in the sale of Rhodesian tobacco on the world markets at a time when there were strict sanctions against the white-ruled colony.

During the next sixteen years, Casalee grew to become the biggest leaf tobacco company outside the United States of America and the fifth largest in the world, with offices in North America (in Winston-Salem, North Carolina), South America (in Argentina and Brazil), Europe (in Bulgaria, Portugal,

Greece, Spain, Italy, Turkey, Russia and Yugoslavia) and the East (in China, India, Thailand and Indonesia). Casalee's tobacco-processing factories were based in the Netherlands, Zimbabwe, Malawi and Brazil. In 1993, the Casalee Group was sold to what was then the largest leaf tobacco company in the world, Universal Leaf Tobacco. Bredenkamp then changed gears and started his flagship company, Breco, in Zimbabwe. By this time, he was no longer just involved in the tobacco trade.

Multiple reports and investigations over the years suggest that Bredenkamp became quite involved in the business of the white colonial regime in Rhodesia. Some reports even indicate that Bredenkamp was at one point in charge of the finances of the Rhodesian defence force towards the end of the Rhodesian Bush War. During this period Bredenkamp became a 'sanctions buster', and brokered export sales of Rhodesian products, which were mainly made up of tobacco, and then apparently used the proceeds of these sales to fund the purchase of military equipment for the Rhodesian army. At this time, the Casalee Group was chiefly involved in the buying and selling of tobacco leaf and introduced the concept of barter deals. In other words, instead of using money to pay for trade, goods were exchanged.

Soon after independence came to Zimbabwe in 1980, when Robert Mugabe's ZANU party took power, Bredenkamp left Zimbabwe and moved his business to Belgium. Later, he was accused of supplying arms to both sides in the Iraq-Iran war from 1980 to 1988. He has always denied these allegations.

While he had propped up the white regime in old Rhodesia, he managed to accept the political changes and seems to have entered into relations with the new rulers of Zimbabwe. When civil war broke out in the Democratic Republic of the Congo in 1998, with various sides being funded and supported by neighbouring countries, Zimbabwe sent their army and air force to assist the DRC President Laurent Kabila. Bredenkamp seems to have been right in the middle of this involvement with his 'defence procurement'. But yet again, he denied these allegations.

In return for Zimbabwe's support, several mining concessions were granted by Kabila's government to Zimbabwean politicians and wealthy business people. In 2002, Bredenkamp found himself on a list of 'people of significant influence within the Zimbabwean government' upon whom the United States imposed sanctions. Bredenkamp was also listed by a United

Nations report as a key arms trader who made millions from illegally exploiting natural resources in the Democratic Republic of Congo. Documents obtained by the United Nations dating from 2001 revealed that a Zimbabwean company owned by Bredenkamp, Raceview Enterprises, had supplied Mugabe's air force with £2.3 million worth of camouflage cloth, batteries, fuel, boots and rations. Other documents, the United Nations claimed, proved that Bredenkamp had provided £2 million of aircraft spares to the Zimbabwean air force. Once again, he denied these allegations.

It seems that Bredenkamp fell out with Mugabe's political party in about 2004, when claims surfaced that he sought Mugabe's replacement by Emmerson Mnangagwa, then the security minister and speaker of Parliament. Breco, his later flagship company, found itself under investigation by government agencies for tax evasion and exchange control violations in relation to offshore companies controlled by Bredenkamp. It was around this time that his Zimbabwean citizenship was also revoked, since Zimbabwean law does not permit dual nationality, and he was charged for having travelled on his South African passport when going abroad. He was ultimately acquitted of the charge. No poor man, by 2016 Bredenkamp's fortunes from tobacco trading, grey-market arms dealing, sports marketing and diamond mining stood at an estimated £700 million.

Under the Breco flag, Bredenkamp also formed another company, Masters International, based in the United Kingdom. Masters International started out as a sports management agency, with famous sport stars such as cricketer Graeme Hick, rugby internationals Ieuan Evans and Mike Catt, and golfers Ernie Els and Nick Price on its books. Soon two groups of companies began to emerge. One was the Breco group, and the other was the Masters group, which soon opened a subsidiary in South Africa. In March 2006 the elite crime-busting unit in South Africa, the Scorpions, conducted raids on a set of cigarette-importing and manufacturing businesses in Linbro Park, Sandton. That same year, in the UK the Serious Fraud Office (SFO) conducted similar raids at a Berkshire address on another Bredenkamp company, Aviation Consultancy Services (ACS). ACS has had a long relationship with the British defence company BAE Systems, which was implicated in the highly controversial 'arms deal' in South Africa. ACS was one of the lobbyists for BAE to secure the sale of fighter jets and trainers in South Africa as part of

this deal.

Two years earlier, SARS had also conducted a raid on the premises of Masters International in Johannesburg, seizing 4500 master cases, comprising 45 million cigarettes, and served the company with a tax bill of about R75 million. Masters International manufactured the then relatively unknown brand, Mega. In response, Bredenkamp moved quickly to place Masters International in South Africa under liquidation. In doing so, he effectively wrapped up the business and gave control over to a curator. But SARS wasn't going to allow this to happen and brought an application to take over the liquidation, which succeeded in court. This was arguably the biggest cigarette bust in the history of SARS. More busts followed soon, with 480 tons of raw tobacco also being seized. Along with all plant and machinery, these were ultimately sold off on auction, with the proceeds going towards settling Masters International's outstanding tax bill.⁷²

Whilst at SARS, I came to meet Bredenkamp when his attorney called and asked for a meeting. It was a short affair, and nothing really came of it. Bredenkamp was not a young man anymore. He seemed sick and tired of the problems he was facing and genuinely wanted to find a way to settle with SARS. This was not to be and, in the end, the liquidation, under a SARS-appointed curator, was carried out. At the time, he drew my attention towards the multinationals and their involvement in questionable practices. This was the moment when I first began to look at the tobacco industry with a new understanding.

Bredenkamp would move back to Zimbabwe, and I am told by those close to him that he has basically retired and is no longer particularly active in the tobacco game. Although the brand Mega is still being manufactured by Breco in Zimbabwe, Masters International in South Africa is no more.

Gold Leaf and other independents

One of the pioneers of ‘cheapies’, a firm that has probably been in the game the longest, is the Gold Leaf Tobacco Corporation, known by its acronym GLTC or sometimes simply as Gold Leaf. Its brands have been competing with the multinationals since the early 2000s, the most popular being Sahawi and Pacific. The brains behind Gold Leaf are the Zimbabweans Yakub Mahomed and Simon Rudland. They first caught public attention in 2006 when a local company, Mavambo, was raided by the crime-fighting unit the Scorpions in March that year. The Scorpions had obtained court warrants of arrest for Mahomed, Rudland and Ebrahim Adamjee, a South African. According to an affidavit, Mahomed allegedly operated two related cigarette manufacturing plants, Gold Leaf and Sahawi, which supposedly supplied cigarettes on which no VAT or excise duty was paid. Adamjee allegedly ‘controlled the cash generated from the illegal cigarette sales’. Some of the cash was reportedly laundered through Mavambo and other accounts controlled by Rudland, who was also allegedly involved in smuggling Sahawi cigarettes.⁷³ The investigation came to naught when the warrants were challenged in the Supreme Court of Appeal. Ultimately the case was formally withdrawn.

I recall a day when the Scorpions came to SARS, requesting us to ‘act as complainant’ soon after the raid and while the legal challenge was ongoing. I will leave this here, since I am legally unable to elaborate on the matter, except to say that it is highly improper for the state to first act against people using search warrants, arrest and charge them, and then afterwards look around for ‘complainants’ to mount a criminal case.

Rudland’s empire in Zimbabwe is known as Pioneer Corporation Africa

(PCA). Mavambo, the company raided in 2006, was a transport company and a subsidiary of PCA. As you will have realised by now, no tobacco manufacturer, regardless of size or brand, can claim not to have some skeletons in the cupboard. Gold Leaf is no different. In July 2013, court papers revealed Rudland's relationship with another 'cheapie' pioneer, John Bredenkamp. At the time, there was a dispute between them that was playing out in the Zimbabwean courts concerning an amount of about \$4.2 million. One insider was quoted as saying, 'You would know that Rudland had a business relationship with the applicant, who is Sahawi International Limited, and that interest goes beyond a trading one. In this regard, I also understand that [Yakub] Mahomed is merely a representative of him ... Further, you will know from court proceedings that this clever chap [PCA] would run and receive cash proceeds from Sahawi's local operations and the dispute allegedly started after a supposed cigarette manufacturing joint venture failed to materialise.'⁷⁴

In 2016, Gold Leaf Tobacco made news again, when it appealed to the Supreme Court in Zimbabwe against an earlier High Court order that stopped them from packaging and selling cigarettes bearing the brand name RG in Zimbabwe. This followed lengthy litigation with the company Tonbridge Assets Limited and Cut Rag Processors, who hold the RG trademark. The High Court ruled that the use of the name caused prejudice to the Remington Gold brand of which the Zimbabwean company Savanna Tobacco was the licensed manufacturer. Gold Leaf Tobacco Zimbabwe then introduced the brand Rudland & George to Zimbabwean smokers in 2017 while awaiting the outcome of their appeal. The RG brand was, however, still being sold in South Africa.

In South Africa, from 2002 onwards, while the battles continued between the big boys' club and the pioneers of the 'cheapies' like Highway Hennie's Apollo, Ayabatwa's Mastermind and John Bredenkamp's Masters International, Gold Leaf steadily continued manufacturing and selling its own brands, slowly but surely growing its market and eating into the share held by the established firms. Despite the few run-ins Gold Leaf had with the law over the years, and unlike the fortunes of Mastermind and Masters International, which eventually collapsed, the firm managed to stay afloat. Indeed, by 2018 it had probably developed into the largest of the independent tobacco traders

in South Africa.

Another of the ‘new kids on the block’ who emerged in the 2000s was Benson Craig, a manufacturer based in Botswana. As seems to be the case with many of these smaller players, Benson Craig had its own notorious character. Craig Michael Williamson is a former South African police officer who was exposed as an apartheid spy. Later, it was revealed that Williamson was the mastermind behind the assassination of the anti-apartheid activist Ruth First, the wife of the South African Communist Party leader, Joe Slovo. On 18 August 1982 she was killed by a letter-bomb in Maputo, Mozambique. In 1984, Williamson sent a letter-bomb which killed another anti-apartheid operative, Jeanette Schoon (Jenny Curtis), wife of the African National Congress operative Marius Schoon, as well as their six-year-old daughter Katryn, who were then living in Angola.

Benson Craig is the only cigarette manufacturer in Botswana and was apparently established with the help of a government-supported industrial diversification project. Its stated mission is to provide the Botswana and southern and Central African markets with ‘value brand cigarettes’, of ‘equal quality to imported international brand cigarettes, but at half the cost to the consumer’. The firm also offers to manufacture cigarettes for brand owners who do not have manufacturing facilities of their own and to provide technical advice to independent cigarette manufacturers in the region.

Other new entrants are United Africa Tobacco Manufacturers (UATM), belonging to the Rwandan Emmanuel Rutagamirwa, of whom little is known, and Folha Manufacturers (Pty) Ltd, whose proprietor is Calvin Pillay. First launched with one brand, Westleigh, it later also produced Westleigh Fresh, Westleigh Sky and Westleigh Platinum brands, and subsequently added such brands as Yallip, Fame and Lotus. The latest manufacturer to have entered the market is Best Tobacco Company of Johannesburg, run by its Lebanese owners Abdul Sabra and Mimo El-Ali. The firm was briefly a member of FITA before going it alone. It manufactures and sells the brand Caesar.

I have already explained that the total cigarette market, the complete ‘pizza’, is not held by local manufacturers only. Some of the big boys, Philip Morris SA for example, the makers of Marlboro, do not produce their brands locally but import them for local consumption.

Apart from the role-players you have already met, it is worth noting that there are many independent importers and traders who also import various brands for local sale, and so take a sliver of the ‘pizza’ for themselves. One importer worth mentioning, purely because I believe them to be among the biggest in the country, is All Trans Logistics, which functions as a clearing agent. They briefly featured in a reported court case in 2017 when they imported 200 cases of cigarettes from Zimbabwe for a local client, storing them in their warehouse. The case revealed that this consignment (as well as another) was stolen from the warehouse. Their managing director is Keith Mordaunt, whom you will come to meet later.

There are simply too many of these smaller clearing agents, traders and importers to mention here, but probably among the most notorious must be CEW Logistics, a transport company specialising in moving goods to and from South Africa and Zimbabwe. In November 2011, the company hit the headlines when owner Walter Cyril and his partner Letisha Pillay, together with SARS officials Waldo Headger and Nkhensane Maluleka, were arrested following a joint SARS and police raid at Cyril’s house in Bedfordview, Johannesburg. Cyril and Pillay also operated Tish Maritime (Pty) Ltd, a fairly large customs bonded warehouse. CEW Logistics was reported to have been an importer of large consignments of cigarettes from Zimbabwe, which were then stored in Tish Maritime’s warehouse. Tish Maritime also provided similar services to other importers.⁷⁵

The four were ultimately charged with over 200 counts of smuggling contraband cigarettes. As the raid unfolded, the prosecuting authority also seized several assets including a few luxury cars, jewellery and immovable property belonging to the suspects. The scam they stood accused of involved fraudulently affixing customs stamps to the export documents of cigarettes that were never exported – in other words, ghost exports. But, as with so many of these criminal investigations, at the time of writing this case seems to have gone nowhere. I couldn’t find any record of it ever having been seen through to its logical prosecution.

Adriano Mazzotti and Carnilinx

Following in the footsteps of the pioneers of ‘cheapie’ brands came a second generation of independent tobacco manufacturers, who would eat away yet further at the monopoly of the big boys. Another of these newcomers to the tobacco industry is Adriano Mazzotti.⁷⁶ I found myself, in late August 2018, sitting across from him at the offices of one of my clients in Johannesburg, where he agreed to meet me. He was, as usual, dressed to the nines, with designer jeans, T-shirt, jacket, shoes and belt all in his trademark black. He looked years younger than his true age. He was as fit as a fiddle, and told me how he regularly worked out at the local gym. He was clean shaven, his hair neatly trimmed and he had a glimmer in his eye. He is often referred to as ‘The Italian’ by friend and foe, on account of his background. His parents left Italy after the Second World War to begin a new life in Johannesburg, and Mazzotti grew up in Alberton on the East Rand.

We were chatting in general about the tobacco industry. He was aggrieved because an affidavit to which he attested in March 2014 had been leaked to the public and, as a consequence, he had to constantly field unwanted questions from the media. By this time, the affidavit had been spread far and wide among the media and at the Johannesburg Bar Council when it was attached to a complaint of some sort and lodged there.⁷⁷ He wanted me to set the context of this affidavit straight in the public’s mind. His affidavit in effect tells the story of another of the ‘cheapie’ cigarette manufacturers that had become a thorn in the flesh of the multinationals. Originally called Carnilinx Tobacco Company, and later known simply as Carnilinx, Mazzotti’s company formed part of what I regard as the second generation of independent manufacturers, all following in the footsteps of the older pioneers like Highway Hennie’s Apollo Tobacco, Ayabatwa’s Mastermind Tobacco SA,

Simon Rudland's Gold Leaf Tobacco, and John Bredenkamp's Masters International. Carnilinx's biggest-selling brand in South Africa is Atlantic, while their best-selling export brand is known as Stix, both brands being their own trademarks. They once also manufactured other brands, Mega and Derby, but had by 2018 stopped producing these. The Italian, through Carnilinx, and a host of other young guns entered the scene from around the late 2000s. They had all seen the shift in smokers' behaviour and, as entrepreneurs, began to take on the multinationals head to head. It was then that the 'cheapie' or 'value' market really got under way.

Although I recorded our interviews in which he agreed that I may disclose aspects of his tax affairs, Mazzotti did not give me written permission to publicly talk about his taxes at the time of writing, so I am somewhat limited by the law when it comes to doing what he asked me to do – to explain the context of the affidavit. In general terms, I will say that the origins of these sorts of affidavits lie in the efforts by SARS to crack down on malfeasance in the tobacco industry. By 2013 the various investigations, audits and projects were brought together as a single project known as Honey Badger. The legal principle that was applied was that if a taxpayer voluntarily came to SARS, and disclosed past non-compliance, this would be taken into account when it came to SARS imposing penalties and other punitive actions. Committees would be left to decide how to deal with these disclosures. These types of legal mechanisms are in fact now a permanent feature in the Tax Administration Act, known as 'compromise' and 'voluntary disclosure applications'. Most revenue and customs authorities worldwide share these types of instruments. The concept requires full disclosure on the part of the errant taxpayer, with the proviso that if the regularisation of their tax affairs failed, the disclosures made could not be legally used against the taxpayer for any purpose at all.

There has been a lot of myth and mystery surrounding Mazzotti in particular, some which I took the opportunity to discuss with him when he agreed to speak to me openly in 2018 in preparation for this book. After matriculating, with no financial means to study further, Mazzotti faced the prospect of two years of national service in the South African Defence Force. Having been brought up by his parents as an anti-fascist, he did not see himself as joining

the army as a conscript and fighting on behalf of the apartheid state. With the Military Police on his back, he left Johannesburg and settled in Durban, in a bid to disappear off the radar of the government. Here he dabbled in all sorts of small opportunities and odd jobs. He also met his future wife, who introduced him to a man who would become his future business partner and brother-in-law, and the person whom he acknowledges as key in his own career as a successful businessman, Martin Fraser Wingate-Pearse. Wingate-Pearse had a well-established clothing business, primarily specialising in selling imported high-quality, famous-branded overcoats and jackets. These would be stuffed into containers as packing material for goods like furniture and would thus avoid import duties, circumvent import regulations and so dodge the clothing embargo imposed by the apartheid regime. The two instantly liked each other and Wingate-Pearse gave Mazzotti his first break. Soon enough, Mazzotti found himself in the import trade, selling high-end coats and jackets at stalls and flea markets. He retains this business to this day, although nowadays he mostly imports second-hand coats. You will often find him at his warehouse in Johannesburg early on a Saturday morning, behind tables of clothing, selling them to hawkers and other buyers at very low prices.

Mazzotti admits quite freely that, in later years, he came to be associated with the convicted drug-dealer Glenn Agliotti and a fellow he came to know as Antonio Lamas. Agliotti became notorious for his drug convictions and for turning state witness against the former national commissioner of police, Jackie Selebi. The Mexican-born Antonio Lamas acquired equal notoriety. When the FBI came after him for his involvement in an international cocaine-smuggling ring and in negotiations to buy a Soviet-era submarine for a Colombian drug cartel, he fled and settled in South Africa under the alias Nelson Pablo Yester-Garrido. Mazzotti claimed that when he met the man, he had no idea of his background at all and came to know him socially after being introduced to him. The international fugitive was later, in December 2017, arrested in Italy to await extradition to the United States.

In 2002, however, Mazzotti and Wingate-Pearse had a huge fallout with Agliotti when, according to their lawyer, they ‘realised that Agliotti had stolen certain business information from them and was trying to communicate directly with customers from whom they were importing clothing’.⁷⁸ It would also later come out in court papers that Agliotti had accused both Mazzotti and Wingate-Pearse of dealing in illegal drugs, though none of these

allegations have been proven and both men have always denied the charges. I asked Mazzotti about this outright, because in 2018 photographs and emails were being passed around, among others to journalists and people in the cigarette industry, purporting to be evidence of how some of the Carnilinx directors were ‘chopping’ cocaine before consuming it.⁷⁹ Claiming that the photos had come from ‘that lady lawyer’, he explained that they were just a prank, involving sweeteners and nothing more.

Carnilinx started off as the brainchild of a partnership. Initially, those involved were Mazzotti, Mo Sayed and Wingate-Pearse, together with former apartheid spy Craig Williamson, who was later bought out. The partnership acquired cigarette manufacturing equipment on an auction, with the idea of going into the tobacco trade. Gavin Lombard, who was fairly well-known in the tobacco industry, was recruited to join Carnilinx. An associate of his had secured the rights to a patented cigarette-packaging system, which added value to the company. Thereafter, Kyle Phillips, a whizz in operations management, was also recruited. The primary funder and shareholder, although not directly involved in managing the company, was Wingate-Pearse. Soon enough, Carnilinx took shape, with Mazzotti, Sayed, Lombard, Phillips and Wingate-Pearse as its directors.

Once it got under way and began manufacturing cigarettes, Carnilinx wasn’t always compliant with tax and customs legislation. In Mazzotti’s affidavit, he acknowledged that they had ‘ghost-exported’ their goods for a period of least ten months, for which in return they received cash payments that were not accounted for in the books of the company and for which no excise duties were paid. ‘Carnilinx accepts that it acquired tobacco unlawfully and wrongfully of two tons per week over a period of some 40 weeks ... on the false pretext that the tobacco was earmarked for Swaziland whereas it was not.’⁸⁰

Mazzotti had no qualms about sinking Belinda Walter. ‘At the time that Walter was our attorney she advised us to set up an offshore holding company and for all the members of the company to establish offshore trusts that would then hold the shares in the offshore company. She then advised us that we should transfer our assets by way of sale to this offshore company in order to protect our investments.’ He continued, ‘In November 2013, she withdrew from being our attorney and we approached [another law firm] to be our

attorneys on record. We did ask them to review the structures – they indicated that the offshore structures were not entirely legal and that they could be construed as looped structures. We understand this to mean sham companies with the purpose to hide away assets to avoid paying tax ... These offshore structures were put in place but never acted upon. We accept, however, that together with Walter we formed these offshore structures, but nothing really came of it.’

I asked him more about this, and what he thought Walter’s real motivation was, considering that he now knew that she was a spy for both the Illicit Tobacco Task Team and BAT plc. Eventually he gave me his opinion: ‘The circumstances surrounding the incident all point to an elaborate attempt to set us up to do something illegal to compromise our business.’ His answer to me was quite philosophical. ‘Clearly a very intelligent and capable person, she gained all of our confidence over time, where we were led in a direction motivated by mixed but mostly bad intentions. We survived, but the repercussions still affect our daily lives today. Betrayed, yes, but she like everyone else is motivated ultimately by self-preservation I suppose. So I prefer to blame myself for being naive and allowing it to happen.’⁸¹

But there was still more on Walter. ‘We asked [an employee] to allow us to deposit cash monies into her account – this was from the proceeds of our illegal transactions – and then transfer the monies to the company as sales. These funds have been frozen by the Standard Bank. Walter and [another lawyer] dealt with our case in getting these funds released. Walter wrote various letters to Standard Bank and wrongly implicated third parties introduced to us by [a lawyer], to say that they had advanced the money to [the employee]. Foolishly, we entered into this transaction which cost us R300,000 to pay to third parties to claim that the monies belonged to them when, in truth and in fact, the monies belonged to us.’

Mazzotti was open to answering more questions from me.

The media had reported on Jacques Pauw’s explosive book, *The President’s Keepers*, that revealed that Carnilinx and Mazzotti had supported Dr Nkosazana Dlamini-Zuma during the contest for the presidency of the ruling party, the African National Congress, in December 2017, which she lost by a narrow margin to Cyril Ramaphosa. This story was soon followed up by

Sunday Times journalist Mzilikazi wa Afrika, whose article included photos of Mazzotti standing next to Dlamini-Zuma. Mazzotti at first denied, in answer to questions by the media, that he had supported her campaign, and then put on record that he had only once met her, by accident. It turns out that Mazzotti miscalculated the press's ability to dig for information because, soon enough, photos of another meeting between the two appeared.

Mazzotti was genuinely remorseful when I asked him about this. But he claimed that too much was made of the story. The meetings weren't that significant, he told me. Through his contacts in the clothing industry, he admitted he had assisted the 'NDZ' campaign in obtaining t-shirts and caps with the 'NDZ' logo and 'radical economic transformation' emblazoned upon them, but also said he didn't have to pay for them. 'Yes, we played around and posed for photos wearing the hats and stuff, being silly,' he said.

He also came out about his relationship with Julius Malema, the firebrand politician and leader of the Economic Freedom Fighters (EFF). Mazzotti describes Malema as one of his best friends. 'We do not always agree on things, we sometimes argue big time,' he told me, 'but he is my friend'. It has never been a secret that he assisted the EFF in 2014 with a donation which enabled them to register for the national elections for the first time, in which they won 6 percent of the national vote. What also came out publicly was that Kyle Phillips, one of Carnilinx's directors, also lent money to Malema. The question posed was whether this could have been the proceeds of crime. We will most likely never know.

For many EFF supporters, Mazzotti is a hero. In my view, his political affiliations are his constitutional right. Mazzotti would tell me that he had also donated money to the ANC. Besides, he said, he wasn't the only one in the tobacco industry who supported politicians and political parties. At least, he was open about it.

Another story that had been doing the rounds for some time was that Malema lives in a house in Bryanston paid for by Mazzotti or Carnilinx. I asked him about this. He told me that when Malema became a member of parliament, he began to travel extensively. This led to Malema asking him to help him in finding suitable accommodation for his wife and children that was safe while he was away. Mazzotti had shares in a company that owned a few units in a complex in Bryanston, and one of the houses happened to be vacant. It was being rented out by an estate agency, and Mazzotti told Malema about

its availability.

This association with Malema leads me to a last little story about Carnilinx and Mazzotti. In our discussions, Mazzotti told me that, sometime in 2016, he was taken to the home of the State Security minister, David Mahlobo, who seemed to want to use Mazzotti as a source of information on Malema. According to Mazzotti, he informed Malema of this from the start, and advised him to play along. But it seems nothing significant came of this, except that it helped me to make sense of another incident. One day in 2016, arriving at a shopping mall a bit early for a planned meeting with Mazzotti, I noticed him sitting in a restaurant with a person known to me as Monde Gadini. He used to work at SARS, though I never knew him then, and he had left the service to join the State Security Agency. I would only meet him in this capacity during the height of the 'rogue unit' disinformation campaign. At the time he helped me to try and dispel the false allegations about the unit. He also once featured in a media exposé as an alleged participant in a secret project for the State Security Agency in Marikana, Rustenburg, when Zuma tried to set up a false union as a front, apparently to counter existing labour unions in the area. Much later, when I asked Mazzotti about his meeting with Gadini, he told me Gadini had been acting as a go-between for the State Security Agency, trying to get Mazzotti to provide information about Malema to them. But, said Mazzotti, Malema knew of these attempts all along, and nothing ever resulted from them. What this does represent for me, though, is yet another example of the incestuous relationship between politicians, spooks and the tobacco industry.

News broke about SARS acting against Mazzotti in February 2019. It was reported that SARS had obtained a High Court warrant of execution to recover R33 million of a R71 million tax debt, raiding his house and a warehouse in Johannesburg, with the sheriff seizing several assets. This was apparently linked to a case, dating back to 2010, in which Mazzotti and the company Real Time Investments are accused of cigarette smuggling and falsifying export documents.

Mazzotti issued a statement at the time, saying that he was surprised by the action because his legal representatives had been busy with settlement negotiations with SARS and that the warrant was obtained by SARS without informing him in advance.⁸²

Yusuf Kajee: ‘That guy fears nobody and nothing’

Yusuf Kajee ranks among the second generation of local manufacturers who began to take on the big brands on home turf. I first came to know of him in 2010, when he was still the proprietor of a tobacco manufacturing plant known as CK Tobacco, trading as Delta Tobacco. A whistleblower described him to me as a ‘guy [who] fears nobody and nothing’. Kajee is truly a colourful character. Since first hearing of him, I have come to meet him both in my official capacity and, later, casually. There is nothing flashy about Kajee. He doesn’t drive a fancy sports car, own a posh mansion or wear fancy clothes. He is all laughs and smiles, and you can be forgiven for underestimating him and even thinking him a bit ditsy. Trust me, you’d be wrong.

CK Tobacco, also often referred to as Delta, no longer exists. There is some confusion in these names, because there was also a Delta Tobacco Corporation (Pty) Ltd around this time. SARS liquidated CK Tobacco after protracted investigations over several years, including a liquidation inquiry. By the time it shut down, Kajee had already moved on and started a new outfit in Pietermaritzburg, called Amalgamated Tobacco Manufacturers (ATM). It has a state-of-the-art plant, with modern machinery and maximum-security features. CK Tobacco was Kajee’s first foray into the tobacco industry and he would have learnt his lessons well from that experience. When he set up ATM, it was from the start a smooth-running operation in all respects.

Kajee was the most outspoken of the group of independent manufacturers, often inveighing against the multinationals. He was also the first person to

expose the attack on me, and later on SARS, for what it was, in emails which he sent to various media houses in mid-2014. He made no bones of the fact that he believed that some law enforcement officials, BATSA and the Illicit Tobacco Task Team sought to discredit me because, according to him, one of their number had confessed to him that 'JvL could not be controlled'.⁸³ In an email of 11 August 2014 Kajee revealed that he had met Belinda Walter, who 'admitted that she works for [a tobacco firm] undercover, getting paid in Pounds ... [She] began to explain in detail about how she intends infiltrating Johann van Logerenberg [*sic*] for them as they are unable to control him. [She] Said that they wanted Van Logerenberg's hands tainted and removed from SARS as he was becoming a problem for [the firm]. He had caught up with their transfer pricing model, paying royalties to their offshore company ... [The company] not so clean after all. She thereafter began to leak information ... to the SARS anti-corruption department in order to discredit Van Logerenberg.'⁸⁴

The media quoted parts of Kajee's email and also relied on another independent source in the tobacco industry. Said Kajee: 'She showed us her correspondence with Johann on WhatsApp. I believe he fell in love with her not realising she had ulterior motives.'⁸⁵

Walter's response was that the media coverage was 'full of "repulsive, untrue and blatant fabrications", and that she [was] suing *City Press* for defamation'.⁸⁶ She never did.

I have stayed in distant contact with Kajee after leaving SARS in February 2015. He would from time to time provide me with valuable information about what was going on in the tobacco industry. A deeply religious man, he would pepper his texts with words of wisdom from the Quran, while exchanging the latest gossip in the industry and politics with me. The interactions between us have been cordial and to the point. As far back as September 2010, Kajee came to me and warned me that there were all sorts of plots to influence and capture law enforcement officials and intelligence officers to discredit us at SARS. His friend and business associate Paul de Robillard also warned us of the same thing around this time, even giving details of one such plot, saying that R600,000 had been 'set aside' to influence the Hawks, the National Prosecuting Authority and the South African Police Service in order to discredit SARS officials. I, for one, believed their warnings. But nobody listened to me then.

Kajee is an unashamed supporter of the African National Congress and of former President Jacob Zuma. He was a relatively unknown businessman who only really came to public notice in late 2013 when it became known that one of Zuma's sons, Edward, was a director, later a shareholder and finally a partner in Kajee's ATM. In legal papers, Zuma accused SARS of corruption and racism and running a smear campaign against him. This followed investigations against ATM. It also came out then that in March 2012 Zuma, in his capacity as a shareholder of ATM, wrote to the SARS commissioner, Oupa Magashula, asking him to investigate and resolve the dispute between SARS and ATM. Zuma had resigned as director of ATM the year before. In 2013, Kajee's lawyer would tell the media that 'Mr Zuma has no business interest in that company'. He stated that Zuma was removed as a director of the company because of 'all the judgments' against him and because his 'involvement would have impeded its application for a licence to make cigarettes'.⁸⁷

The essence of the dispute between SARS and ATM came to light during these proceedings. Basically, SARS claimed to have evidence that ATM at the very least manipulated processes and procedures and was at worst fraudulent and corrupt. SARS believed the firm was originally funded 'by means of concealed transactions, aimed at preventing SARS from having insight into such transactions as well as amounts provided by ATM's financier'. The findings suggested that during 2012 ATM had declared it had manufactured 972,000 cigarettes, or about 15,800 boxes, whereas SARS claimed it had manufactured at least 3.8 million cigarettes, or 190,000 boxes, and the consequent taxes weren't paid.⁸⁸ Kajee also had no qualms in telling the media that SARS had assessed him for outstanding personal income tax of R7 million in 2014, but said he disputed this.⁸⁹

Whatever became of these matters, I cannot say, since I left SARS in February 2015 when the disputes were still ongoing. In law I am in any event not allowed to elaborate on such matters. One thing I can say is that Edward Zuma was wrong to say SARS had acted in an 'underhanded' way, and this was never proved in any event. But some evidence would later emerge to show that it may have been certain players in the Illicit Tobacco Task Team who had been acting underhandedly against ATM.

On 26 August 2013, a heavily armed task force of eighteen police officials in

camouflage fatigues, accompanied by immigration officials, descended upon the Pietermaritzburg premises of ATM. The task force surrounded the factory, with some scaling the fence and taking control of a security access remote from a security guard. News of the raid was carried in the local newspapers and even made national news. According to affidavits and complaints registered with the police soon thereafter, the pretext of this massive raid was to investigate ATM for 'breaches of immigration laws'. While several employees were arrested, nothing else came of the raid.

But the raid wasn't instigated by the Department of Home Affairs at all. It was overseen and coordinated by leading members of the Illicit Tobacco Task Team, namely Brigadier Casper Jonker, Lt Colonel Hennie Niemann and Warrant-Officer Willie Schreiber. They were behind it all along. The search had nothing to do with tobacco investigations; in fact, the circumstances suggest this was a form of intimidation, an attempt to place pressure on ATM. No criminal prosecutions followed and nobody was convicted. In my view it was just pure abuse of state power. On the day of the raid, Niemann and Schreiber were on site, together with the heavily armed team. According to eyewitnesses, Niemann took photographs using a camera belonging to Schreiber while walking through the factory. When questioned about this, it was claimed that it was 'for the benefit of Home Affairs to record where all the employees came from'. Later evidence would emerge that the Home Affairs officials admitted to having been duped by false allegations of 'immigration offences'.

Yusuf Kajee, standing his ground, and refusing to be intimidated by the show of force, opened criminal charges against the officials at the local police station. Accompanying his complaint were affidavits by employees who had been harassed, some even claiming to have been assaulted and threatened with violence. In addition, Kajee provided photographic evidence of broken doors, locks and gates, and damage caused to parts of the factory and to his cigarette stock. In Kajee's complaint, he detailed how, upon the arrival of the armed raiders, he opened the gates at their request but they stormed through. Employees of ATM pointed out by the armed police were brought out of the factory, made to lie on the ground with automatic R4 or R5 machine guns pointed at them, and told to hand over their passports. Niemann and Schreiber then engaged with Kajee's lawyer, who by then had arrived on the scene, and said they were investigating a case of *crimen injuria* after Kajee had allegedly

sworn at Brigadier Jonker during a telephone call.

The next month, on 11 September, a similar armed task force of officials raided ATM again. They came armed with a search warrant, again claiming ‘immigration breaches’. It seemed a repeat of the prior raid. This time, according to the papers, not only was the factory raided, but also Kajee’s home. According to Kajee’s complaint, various premises were entered without his presence, which would ordinarily be required in a search and seizure situation. What makes this second raid so interesting, aside from the unusual show of force, is that eight Chinese nationals were arrested, kept in custody for a week, and then released on a warning relating to ‘improper immigration documents’. Kajee didn’t relent; instead he upped the ante, and registered criminal complaints against the members of the Illicit Tobacco Task Team, including charges of trespassing, defeating the ends of justice, intimidation and harassment, fraud, malicious damage to property and assault. Nothing came of these complaints, and no criminal prosecutions followed the raid. For all the bluster and headlines, the Illicit Tobacco Task Team didn’t really achieve much, other than terrorising Kajee’s employees.

News of the raid was greeted with delight by some of Kajee’s enemies and rivals in the tobacco industry. Among the data given to me in March 2014 were discussions between the Illicit Tobacco Task Team and Belinda Walter, showing that she was informed of the results of this raid by people involved in it. She sent a rather gleeful text message about the raid. ‘Karma’s a bitch – Kajee was raided today. Received – The operation in PMB was successful. 10 Chinese and 1 Zimbabwean were arrested and are currently detained at the local SAPS. All were charged with 3 contraventions of immigration act and will be deported asap. YK [Yusuf Kajee] will be responsible for the cost of their airplane tickets back to China. 2 Chinese and 7 Zimbabweans were let go by YK which is an offence under the immigration law and he will be charged accordingly.’

In another data set, this time in a text chat group of Walter’s named ‘Evil Inc’, the participants seem at some stage to have given up on trying to use the media against Kajee to discredit him. ‘I’m ... aggravated that YK [Yusuf Kajee] seems to be getting away with everything ... but I don’t think it’s a good idea to go to *Moneyweb* [the online news company] ... we just giving him a heads-up and agitating him (a bit like kicking a hornet’s nest) ... bad

publicity means nothing to him ... Shall I spread misinformation? People I'm with know him.'

I subsequently found a number of articles published on *Moneyweb* in April and June 2013, with exposés of Kajee, De Robillard, Edward Zuma and others in connection with their attempts to take over a low-cost aviation company, Fastjet. One of them bore the headline 'Fastjet SA directors' tobacco smuggling links'.

In conversation, Kajee revealed to me that he had been poisoned some time previously, in 2014, and had to have his one kidney surgically removed. He didn't want to elaborate on the events save to say that he was just happy to have survived. This allegation reminded me of a rather disturbing exchange relating to Kajee that I had come across in the 'Evil Inc' chat group. The conversation was preceded by a discussion about Kajee and his business, about his 'getting away' with 'everything'. And then the discussion suddenly turned very dark.

Participant: [Son of tobacco baron] wants all his [Kajee's] details ...

Participant: Does he have contacts? Can he bring in a hitman?

Participant: Do it!!!!

Participant: But they don't hurt people. I said it's the first person I want dead.

Participant: I don't hurt people either ... but he is a cockroach ...

Participant: I agree.

Participant: So we can exterminate him ...

I am deliberately not naming the participants in this conversation because this matter is subject to a police investigation being conducted by the Durban Serious and Violent Crimes unit, which approached me as potential witness. But it does show further evidence of dirty tricks in the tobacco trade. It doesn't stop here, though, and the plots aimed at Kajee are actually deserving of an entire book on their own.

By 2018, despite all these challenges, Kajee was still around and ATM continued to grow. He himself had moved up in life and his influence had increased. He even sent me a photo of himself and important people from the United Arab Emirates and another where he sat in on a meeting with then President Jacob Zuma. Already in November 2013, celebrating the 153rd year

of the arrival of Indians in South Africa under the indenture labour system, he hosted some two hundred guests at ATM's Mkondeni-based factory in Pietermaritzburg. On the invitation list were the acting consul-general of India, Edward Zuma, the consul-general of China, and various other local business people and dignitaries. His stature and influence has grown since then, because *TimesLive* ran a story, listing the names of the VIPs invited to attend his surprise 50th birthday party at the Coastlands Convention Centre in Umhlanga, Durban, on 3 February 2018. Among those invited were eight police officers, including the suspended KwaZulu-Natal provincial police commissioner, Major-General Mmamonye Ngobeni, and her husband, Major-General Lucas Ngobeni. Others included a mayor, the controversial Cape Town businessman Mark Lifman, other politically connected people and even the head of the SARS anti-corruption unit, Gobi Makanye – although not all those invited seem to have attended the bash.⁹⁰

His cigarette business was also expanding and new 'cheapie' brands could be found on the shelves. ATM has diversified, and no longer merely manufactured cigarettes, but also made sweets and energy drinks. Although a founder member of FITA, ATM had left the grouping, but by 2018 was back with them. Clearly FITA had recovered from its earlier setbacks and was now beginning to function as an effective lobby group for the independent South African tobacco manufacturers and had become a force to reckon with.

From about December 2015 onwards, FITA seemed to have got most of its house in order. It somehow survived the explosive public revelations of its origins. It had by then appointed a new chairperson, a young and upcoming bright attorney, Sinenhlanhla Mnguni, and slowly but surely, it began to pick itself up from out of the gutter. Some members were kicked out on account of bad behaviour, new members joined, and they began to work closer together to take on their rivals, big boys' club TISA and its members. FITA was revamped and it began to feature on social media and in mainstream news more often as the opposition to TISA. Effectively, FITA now represented 90 percent of all local tobacco manufacturers, reportedly employing over 3,000 employees directly and a whole host more along their value chain. Operating from dedicated offices and with a far more professional approach, it came to the public notice more and more. Mavericks as many of them are, the members not only realigned FITA as a group, but they began to grow their own respective businesses, and they began to push back against the dirty tricks

to which they had been subjected over the years, sometimes playing the same game as the big boys, and sometimes using the most unlikely people to assist them in doing so. From the perspective of the big boys' club, these were clearly very worrying developments.

Rollex and Project Robin

Nothing better demonstrates how government officials were captured and manipulated by some within the cigarette industry than the case of Rollex and what was known as ‘Project Robin’.

In 2011 a text exchange took place between Belinda Walter and her Tobacco Task Team handler, Ferdi Fryer. Walter appeared a bit miffed about the payment someone had received after a certain ‘deal’. Fryer was at pains to explain that some of the money was meant for ‘operational purposes’ and he didn’t get much from it. Walter, on the other hand, lamented having supported the ‘deal’ in the first place. The most telling piece of the conversation, the fingerprint on the crime scene so to speak, was when Fryer sought to placate and assure Walter what a good team they made and how capable the two of them were at manipulating the director-general of National Intelligence (later renamed the State Security Agency), the National Prosecuting Authority, SARS and a few key role-players in this saga.

Lonrho was once one of the oldest companies listed on the London Stock Exchange. It first came about in 1909 as the London and Rhodesia Mining and Land Company. In 1963, it was taken over by the controversial figure of Tiny Rowland, once described as ‘the unacceptable face of capitalism’, and shifted its focus from mining interests to include hotels, textiles and newspapers. In the 1990s, it expanded into seafood production and bought a stake in the low-cost airline Fastjet. In 1998, its mining assets were split off under a separate company known as Lonmin, with the remaining interests in Lonrho focusing on business operations in Africa.

Meanwhile, another company named Rollex was independently established in 1989. Rollex specialised in the sourcing, packing and delivery

of fresh fruit, vegetables and fish produce from all over Africa, which was then supplied to its network of retail clients in Africa, Europe, Scandinavia and the Middle East. In April 2008, Lonrho acquired a 51 percent stake in Rollex from the De Robillard Family Trust, paying a cash amount of R40 million for it, with two additional payments to follow based on Rollex's performance.

The first of these payments, to the value of R33.6 million, was paid to the De Robillard Family Trust in August 2009. In May 2010, Lonrho moved to acquire the remaining shares in Rollex so as to own it completely. It announced that had increased its holdings in the issued share capital of Rollex from 51 to 100 percent through the issue of new shares at an agreed price of R51.45 million.

The beneficiary of the De Robillard Family Trust was Paul de Robillard, who was the founder and later managing director of Rollex. He remained on as managing director of Rollex following this transaction. At the time, David Lenigas, who was Lonrho's executive chairperson, said: 'Rollex is one of the cornerstones of the Lonrho Agriculture division. Since Lonrho bought a controlling stake in April 2008, it has proven its value. Given the growth opportunities and new projects being initiated by the company in this specialised niche sector, the board believed that 100 percent ownership was important and very beneficial to shareholders. The fact that Paul de Robillard has agreed to subscribe for Lonrho stock with appropriate lock-ins demonstrates his belief in the business and what it can achieve.' Rollex was certainly a key asset in the Lonrho stable, as its financials attested. In fact, Rollex was very likely the biggest money-spinner for Lonrho.⁹¹

In July 2013, news broke of SARS detaining a few years earlier a number of trucks belonging to Rollex at the northern border of South Africa, holding onto them pending further investigation. They were suspected of having been involved in the smuggling of tobacco. Lonrho, the holding company, went mum and said not a word to the media. At the time, financial records had suggested that Rollex and certain related companies were doing off-the-books transactions in tobacco products.⁹²

Enter the spooks Walter and Fryer. Walter seems to have been acting as attorney in some way or another in the mix, while Fryer was from the SSA. Several meetings followed between Fryer and the legal counsel to Lonrho,

Michael Bennett, with Walter sitting in on some of them. According to Walter's text exchanges with Fryer, she was among those who came up with a 'deal' for Lonrho and Rollex. The plan was to treat Lonrho as the innocent victim of the 'evil' Paul de Robillard. At a meeting in December 2010, Fryer stated to the Lonrho board that he was talking on behalf of the head of the SSA and explained that he had been 'mandated to negotiate' a 'deal' with Lonrho. According to minutes of this meeting, Fryer told Bennett that 'the South African government cannot afford to burn Lonrho on its investment', and it was agreed that Lonrho and its reputation were to be protected 'at all costs'.⁹³

In April 2011, Fryer made a presentation to a South African multi-agency project team that included another SSA manager, senior prosecutor Johan van Heerden, and several senior police officers. This was the embryo of what would later become the Illicit Tobacco Task Team. Minutes of this meeting recorded that a 'deal' had been struck with Lonrho. 'Fryer explained the rationale behind the decision for the co-operation, especially as a result of Lonrho's foreign investment into South Africa and the negative impact of it suffering as a result of the rogue elements within its South African subsidiary.'⁹⁴

But Fryer went further. He also told all present at the meeting that SARS was 'uncooperative and compromised', and therefore should be 'excluded' from this deal. Fryer confirmed the commitment to Lonrho to assist with the protection of its assets and reputation. Soon after this meeting, the SSA and the NPA officials shared detailed intelligence reports on Rollex, including confidential eyewitness and whistleblower evidence, with Lonrho.⁹⁵

Meanwhile, over at SARS, the investigation into Rollex continued as before. Investigators at SARS were completely unaware of the 'deal' with Lonrho. SARS was getting ready to conduct a raid on Rollex, but before long this was placed on hold because of requests from the SSA and the NPA, without any explanation given of the 'deal' that Fryer and Walter had negotiated. Instead, they gave as reason for delaying SARS's intended raid that it might derail a 'sensitive investigation'. Months went by before the raid on Rollex happened in September 2011.⁹⁶ The police conducted their raid in terms of a warrant that had allegedly been drafted for the police by a private advocate who was also representing Lonrho. I would come to learn years later that the instructing attorney in the matter was none other than Belinda Walter.

Of course, the raid led to nothing. Apparently a robbery had taken place about two weeks before the raid, and it was claimed that Rollex's computers had been stolen.⁹⁷

Dean Hewitt once worked for Rollex. In the course of the events already described, he was arrested by the Hawks as a key suspect in the case and charged by the NPA. How and why this happened remains unclear to me, but at that time he had a very close relationship with Belinda Walter. On 19 June 2011, Walter confirmed with Fryer that she had in fact arranged for an advocate to act for Hewitt, 'If you recall – I am the person who arranged his advocate.'

And then another spat started between them about money. Said Walter to Fryer, 'You have no moral obligation to anybody – you just use and abuse for cash or pat on the back! Well done! Seems someone scored handsomely off this investigation!!!'

In a later text exchange between Walter and Fryer, on 2 September 2011, the origins of Walter's becoming a spy for the SSA and Tobacco Task Team appear to be revealed. She had in fact approached the SSA at one time, and from then on she and Fryer seem to have run their own show. Fryer told her: 'I did not have to pretend with you just to get info from you, you and I happened long before ... when we were on Rollex ... and even then I did not have to pretend with you to get info ... why would I??? Remember you came to SSA and voluntarily offered info, I had no reason to pretend ... why in God's good name is/was it necessary for me to pretend with you. And do you honestly think I would risk losing my family to pretend with you, just so that I can get info from you??? ... you are so wrong!!!'

Fryer then made some very incriminating remarks: 'You and I know exactly what and who we are/were from the start ... our ability to do what we do, I think was the initial attraction between us. We are birds of a feather. We even, around the time we nailed Dean's ass, agreed that we make a moerse good team to push people to do what we wanted them to do ... whether it was GN, SARS, NPA or Lonrho!! Our strength to get things done lies in our joint ability ... why would I fuck with that!?' The 'GN' referred to here was the director-general of the SSA, Gibson Njenje. 'Dean' was of course Dean Hewitt, who had been arrested earlier. Their boasting about being able to 'push' the head of the country's intelligence department, SARS and the NPA

to do what they wanted seems astounding to me.⁹⁸

Something relevant to these events would become public later in 2013. It turned out that Lonrho was in the process of selling off and delisting from the London Stock Exchange. Swiss billionaire Thomas Schmidheiny and investor Rainer-Marc Frey had been negotiating to buy Lonrho out for a whopping £174.5 million through their investment company FS Africa, which already owned 19.9 percent of Lonrho. When this news broke, Lonrho's shares nearly doubled. When asked to comment on the dispute between its subsidiary Rollex and SARS in 2014, FS Africa pointed to the old management of Lonrho and said that they were 'unable to comment on activities and issues of the previously listed company'. Lenigas, the former Lonrho head, didn't have much to say about this either. He passed the buck and said the new owners, FS Africa, would answer for the dispute.⁹⁹

The criminal case against Hewitt seems to not have progressed in any way and he eventually left South Africa to live in the United Kingdom. I found incomplete documents of a criminal case, *State v Dean Hewitt*, in some records, but these were rather vague and not very useful in understanding the case. It seems to have died off rather suddenly. Apart from the criminal case, the SARS case was also a likely casualty of events in later years. At the time of writing it is anybody's guess how it was ultimately resolved, if at all.

When I came across this evidence I started wondering what would have happened if the Swiss buyers were made aware of the mess that Rollex was in when the sale was being negotiated? Would they have paid the same price? Would they have insisted that the old management of Lonrho first settle the issue with SARS? Or would the deal have collapsed? One will likely never know.

That Walter was part of the 'deal' struck with Lonrho is in no doubt, because in 2012 she would even confirm this in text exchanges with Derick Vosloo of FSS, stating in so many words: 'I am seeing [a private advocate] on Tuesday. A little nervous because last time I saw him was with NPA, Hawks, SSA, SARS and Lonrho on Rollex case. I hope he does not remember me – although I was simply the Rollex attorney involved in initial seizures.' But she wasn't just what she portrayed to Vosloo.

Walter had played a direct role in initiating the 'deal'. In September 2011,

she texted Fryer with the following words: ‘I’m sorry that I ever started or lobbied [*sic*] for deal for Lonrho on Rollex case. I have been fucked over six-love!’ It seems money was again at the heart of this argument.

This ‘moerse good team’ that was able to ‘push’ the SSA boss, SARS and the NPA – Fryer and Walter – seemed to have come up with another odd scheme although it may not have got off the ground in the end. This was in 2011 and they called it ‘Project Robin’.¹⁰⁰ The idea was to get none other than Tribert Ayabatwa to put up the money to enable them to set up their own cigarette factory for the Yes cigarette brand. Thereafter, they would get the SSA to put up the balance: all part of a hare-brained scheme to out-smuggle the smugglers. But the real motive was to make money.

Those who drafted the project were Walter, Fryer and a well-known person in the tobacco industry, Henry ‘Peerrie’ Spangenberg. The draft moved between the three of them, with Walter finalising it. In quieter times Walter actually sent me a number of emails detailing the plan in early 2014, with the heading ‘This is Project Robin’.¹⁰¹ The larger group of people involved in this scheme, besides Fryer, Walter and Spangenberg, included Keith Mordaunt, the managing director of All Trans Logistics, and another spook, Graham Minnaar, who would later describe himself as someone ‘making trouble for over 20 years’. There were a number of meetings between members of the group and Ayabatwa, who was referred to as the ‘sponsor’. He was expected to put up R10 million for the scheme. Towards the end of June 2011, Walter asked Fryer in a text whether he was going to ‘present an overview of the project’, to which he responded that it was ‘legally complex’, referring to ‘conflicts’.

Though he made general comments about how good the plan was, the scheme seemed fraught with double-dealing from the start. It seems Walter placed significant pressure on Fryer to pay her for information and a ‘trade plan’. She seems to have cottoned on to some payment made and confronted Fryer about this, accusing him of working for ‘piecemeal money’. While fighting among themselves about the money, Fryer defended himself in September 2011 in a text referring to Minnaar as ‘G’. Ferdi told Walter: ‘Contract to advise sponsor overall ... NO payments for individual pieces of info. I know what is the payment for that, but all payments to G NOT me. As god is my witness I have not once requested from G my share of payment,

received or spent a single cent of sponsor money!!!! It's NOT about the MONEY!!! Last friday when you said no more info before compensation or trade plan, I knew there was no time before meeting sponsor to get approval for trade plan, so I suggested let's pay for now until we get project approved. The payment I arranged for this was asking G to transfer a R100' [*sic*] of MY compensation money so that I could at least effect payment of sources. You are WRONG that I'm doing it for peace meal money ... it is about getting the project approved, start trading, generating R20mil income ... and get a % performance bonus from that!!! THAT'S where the money is!!!, that's where I wanted to take ALL of US!!!! ... you are/were so wrong with your assumptions about me and what you think I'm getting paid for!!!!'

It seems the great incentive was to make money for all – a whopping R20 million at that. In another discussion, Minnaar, who was upset with Ayabatwa for changing the amounts that were intended to fund this 'project', texted Walter: 'Ja I don't know why the sponsor changed the numbers as he did ... what he had in front of him is a 40mil profit ... minus his 10mil investment, leaves 30mil clear profit of which 15mil is his ... doesn't makes any sense.'

By September 2011, all the participants in Project Robin were still hopeful of Ayabatwa, the sponsor, and his R10 million 'investment'. It was clear by this time that Minnaar was in charge, with Spangenberg asking: 'Is G running the show?', to which Walter replied, 'Seems he has a good relationship with Ayabatwa.'

But then, two months later, the plan changed. 'Project Robin' had progressed fairly far, it seems, until Minnaar pulled the plug all of a sudden. It appears that one of the reasons for doing so was certain plans that SARS had put into motion affecting the cigarette trade. On 10 November 2011, Minnaar emailed the group, copying Walter, Fryer and Spangenberg. 'Hi guys. I have discussed the situation with Belinda and Ferdi in person, but felt it important to communicate the motivations to everyone, to avoid any confusion. I have made the decision to delay the implementation of Project Robin and have advised the Sponsor accordingly. He is in agreement that we need some time to assess and reflect on SARS' new plans for a Marking and Scanning system to regulate the tobacco industry before we embark on our planned roll-out of the commercial structure. The sponsor has requested me to complete a detailed technical evaluation of this proposed system and to assess the

operational and risk implications in the industry. Any assistance with this request will be greatly appreciated, so if you have any input and information please liaise with me in person when I'm back in SA. I also believe that we are certainly not all in total agreement on how the commercial and financial aspects of this Project will be managed and directed. It is evident to me via our discussions and planning sessions thus far that the overriding purpose of this Project is not completely embraced by everyone in our team. This is a very sensitive project, in a highly volatile and risky environment, with many potential adversaries who will aggressively protect their interests. If the shit hits the fan at some point down the road and we are under pressure, we will need to be a very tight-knit team with unquestioning loyalty and trust between us. I honestly do not believe this is the case at this stage. So I have agreed with the sponsor that we should work together for a period of at least 6 months to a year, to build a better relationship and understanding between the parties before implementing the commercial aspects of the project. The sponsor has agreed wholeheartedly that Belinda [Walter] will continue in her legal counsel; he is most pleased with the support and guidance he is receiving in this area. Peerrie [Spangenberg] will be requested to engage the whole group actively in the area of marketing and sales strategies and the group will begin to utilize Keith [Mordaunt]'s services to handle all their export operations. Ferdi and I will continue to engage the security and risk issues and will naturally need to interact with each member of the team to draw on their input and information. In this way we can build a solid working relationship and trust base before we embark on the planned commercial venture. The time will also allow us to plan around the new Marking system that SARS intends rolling out. I can perfectly understand that my decision to delay the implementation of our commercial venture is a frustration. My motivation is to protect us all and to ensure that we build a good foundation between ourselves before we start with highly sensitive work together. I have spent over 20 years making trouble and when the heat is on, you can't have any divisions or disagreements between the team ... that is asking for trouble!!! I hope this email explains my motivations properly. I am very keen to work with each and every one of the team and to eventually set up a highly successful commercial venture together. I'm back in SA hopefully around the 26th November, let's try to have a drink then to discuss this face to face. In the interim, let's all try to engage the sponsor meaningfully to support and protect

him and to add value in our personal capacities.’¹⁰²

The ‘marking and scanning system to regulate the tobacco industry’ that seems to have spooked them so much refers to a mechanism intended to counter smuggling. In essence it is a system imposed by governments on cigarette manufacturers which generates unique identifying codes, composed of numbers or letters, which are then embossed on individual cigarette packets, cartons and boxes. In this way, the origins of the cigarettes, down to the last packet, can be tracked for audit purposes.

Nobody put the issue of the capture of some members of the Tobacco Task Team better than Walter herself. During December 2014, she had a falling out with her Tobacco Task Team handler Chris Burger. In one email forwarded to Burger and a host of other law enforcement officials, she accused him, Derick Vosloo of FSS and Allan Evans of BAT plc of conspiring against her. Ominously she threatened Burger with a meeting between tobacco industry players and law enforcement officials the previous month, saying there were now photos of him, Duncan and Evans at a ‘social setting in Cape Town’.

Rather amazingly, she put it to Burger in no uncertain terms: ‘Being in bed with private companies is not going to end well for government departments. You know that yet it persists. I am not going to be the fall guy for that. Nobody cares what their motives are – least of all the smaller players who suffer at the hands of the monopoly. And once again you underestimate the political and financial influence the smaller factories have gained in the last 18 months. I have had more than enough bad publicity – I am not going to be tainted by your relationship with BAT. I have already had enough answering to do about my relationship with them.’¹⁰³

The big boys and their dirty tricks

The established tobacco multinationals are no stranger to dirty tricks and more. British American Tobacco has been in the headlines all over the world over the course of many years for various brushes with the law. Needless to say, its public relations systems and its ability to ‘lawyer up’ have increased in quality and size as the company has grown. Every time it has found itself in hot water, it has succeeded in dealing with the problem and managed the public narrative. Reputation for listed companies is as important as making money. Once a company loses its reputation, it is difficult to come back. They can afford the best spin doctors and lawyers that money can buy. They have what I like to refer to as the ‘art of the long view’. They can play a controversial issue down, redirect the public’s attention, litigate for years and years, introduce new deflections, and play for time – for as long as the public’s memory may last.

If you look at BAT’s controversial history, you will agree with me that they are no angels. This is rather important to bear in mind because one of the stories that the multinationals peddle to the public is that their competitors are organised criminals, gun-runners, drug dealers and smugglers, who threaten their own good and honest business. It is my contention that in this way the big boys exaggerate the illicit part of the tobacco industry to benefit themselves, mislead the public and direct law enforcement officials towards their commercial competitors. They meanwhile bask in benevolent innocence. One of the schemes to which big multinationals resort in order to avoid paying taxes is known as BEPS, or base erosion and profit shifting. These practices refer to tax avoidance strategies that exploit gaps and mismatches in tax rules across jurisdictions to artificially shift profits to low or no-tax locations. Because businesses move across different borders, earning money in different

parts of the world, revenue authorities enter into tax treaties with one another which spell out the rules and frameworks to manage these arrangements. As a result, many businesses engage in ‘treaty shopping’ whereby as taxpayers they abuse or improperly apply these treaties, by making a company in one of the countries serve as a conduit for income earned in another country.

Transfer pricing is the big daddy of BEPS. Transfer pricing in its simplest form refers to the rules and methods for pricing transactions within and between companies in different countries that are under common ownership or control. Because of the potential for cross-border transactions to distort taxable income, tax authorities apply rules to regulate intercompany transfers and transactions. For instance, the shifting of goods and services from one country to another within interrelated companies can afford a means to avoid paying tariffs. These types of schemes are incredibly difficult to identify, and even more difficult to prove in court, and require highly specialised auditing and investigative skills. You need to have the mirror views of the transactions in both jurisdictions in order to untangle the scheme. To obtain records and evidence from other countries is no easy task. It requires a lot of effort, red tape and bureaucratic shuffling. More often than not, tax authorities tend to settle with errant companies on these types of transactions simply because the cost and risk of litigation can be so high, and the matters can be dragged out for years.

It is a remarkable fact that in 2014 BAT plc – the parent company of the second largest publicly listed tobacco company in the world – did not pay a cent of corporate income tax in the UK. The reason? Because it didn’t make any profit on its United Kingdom activities.¹⁰⁴

In May 2014, just days before the initial attack on SARS launched by Belinda Walter, it was reported in the media that SARS had commenced with a full-scale audit of BATSA. What’s more, just a month before that, in a precautionary comment in its issued prospectus to shareholders, BATSA announced that it was in a tax dispute with SARS for an amount close to R1 billion.¹⁰⁵ By 2018, this had escalated to a whopping R2.01 billion. BATSA informed its shareholders that the dispute had to do with ‘debt structuring’.¹⁰⁶ Does this sound familiar?

BAT has been involved in controversies all over the world. In 2014, BAT Bangladesh was ordered to pay the equivalent of £170 million in unpaid taxes

and fines for the years 2009 to 2013. To add insult to injury, it emerged that BAT had sought to lobby the British High Commission in Bangladesh to put pressure on the government of what is arguably one of the poorest of the developing states in the world, to make its tax problems go away. This sort of ‘lobbying’ isn’t new to the BAT group. In 2013, the Foreign Office in the United Kingdom had to issue guidelines to staff about appropriate relations with the tobacco industry after a scandal in which the British ambassador to Panama had intervened on BAT’s behalf in that country. The new guidelines stated that officials may not ‘engage with foreign governments on behalf of the tobacco industry, except in cases where local policies could be considered protectionist or discriminatory’.

This use of pressure on politicians is a familiar theme in BAT’s history. Towards the end of 2015, a former BAT employee in Kenya, Paul Hopkins, turned whistleblower against his former company. He told the BBC’s *Panorama* programme that BAT employees had regularly bribed senior government officials in several East African countries with a view to undermining their anti-smoking laws. In 2016, the UK’s Serious Fraud Office confirmed that it had started a formal investigation into BAT for allegations of bribery and money-laundering.

Hollywood cops-and-robber movies often feature a ‘rap sheet’. This is used by the police to check out the history of the misdeeds of the bad guys during their investigations. Looking at the big boys’ club, one could easily do the same.

As far back as the late 1980s and early 1990s, minutes of meetings of BAT’s ‘Colombian Group’ showed that they were selling their brands in Colombia at a ‘no-tax price’. This was at a time when almost 95 percent of all cigarettes in Colombia were estimated to have been contraband. The same goes for Philip Morris International. Around this time, also in Colombia, when it had virtually no legitimate imports into the country, their ‘Latin American Region Strategic Plan’ documented pricing for their ‘duty free’ customers.

Then again, in Canada in the early 1990s, around 30 percent of the total cigarette market was estimated to be illicit. The majority of these cigarettes were produced in Canada by the big boys. Criminal charges were brought against Imperial Tobacco, Rothmans, JTI and RJ Reynolds. Collectively, this

group paid \$1.7 billion in criminal fines and civil restitution for their role in smuggling.

One would imagine that the big boys had learned their lesson. Yet in 1997, both Philip Morris and RJ Reynolds entered into a plea-bargain arrangement in connection with smuggling in the US, agreeing to pay an astonishing \$36 billion in fines over a period of twenty-five years. In 1999, Philip Morris made history in the US for receiving what was then the largest fine ever handed out by the New York Lobbying Commission and was banned for several years from lobbying. In 2000, Russia sued Philip Morris for the extraordinary charge of 'damaging the country's economy'. In the same year scandals around BAT surfaced in the United Kingdom, while the European Commission took civil action against Philip Morris and RJ Reynolds on smuggling charges. Philip Morris ended up making a settlement agreement with the European Union, paying a staggering \$1.25 billion.

In 2000, the *Guardian* newspaper published an investigation into BAT's facilitation of tobacco smuggling. In June of that year, the UK parliament's Health Select Committee set up an inquiry to which the journalist Duncan Campbell of the *Guardian* submitted evidence. He said: 'Smuggling, often organised in a furtive and clandestine manner, has been BAT company policy since the late 1960s. Under the stewardship of former chairman Sir Patrick Sheehy, the deliberate smuggling of BAT products evolved from an ad hoc activity into an organised and centrally managed system of lawbreaking. This was overseen at the highest levels within the United Kingdom headquarters organisation. The company directors and managers who were involved were, on evidence that is plentifully available, fully aware that what they organised was unlawful in those countries where they placed smuggled products. All current executive directors of BAT plc and a majority of the current Management Board have been routinely involved in planning, organising or managing criminal activity, and/or have knowingly consented to the deliberate smuggling of contraband BAT tobacco products around the world. A very substantial part of the company's revenues derives from this misconduct.' In October 2000, BAT's London offices were raided.

In 2001, BAT issued a warning to shareholders of losses in profits of around £500 million because it was being 'forced' to clamp down on illegal trafficking. In 2002, the first inkling of problems in South Africa surfaced when some spooks turned against BAT and accused it of illicit spying and

economic sabotage of small local competitors.

In 2005, BAT was under investigation for supplying cigarettes to agents on the Dutch island of Aruba, who in turn would smuggle them into Colombia. In Cameroon, BAT stood accused of using its influence over customs officials to frustrate imports of a local competitor, causing it huge losses. In 2008, a BBC exposé fingered BAT for involvement in all sort of shenanigans in Nigeria, Malawi and Mauritius. In 2009, BAT stood accused of smuggling in Equatorial Guinea, Cameroon, Sierra Leone and Chad. Two years later, BAT settled with the European Union again and paid a fine of \$200 million on further smuggling charges. In 2012 Philip Morris was charged by the European Union for involvement in organised crime and JTI for allegedly breaching Syrian sanctions. In this same year the Zimbabwe spy ring was exposed, although little action seems to have followed. This is a common theme. Very few cases involving the big tobacco manufacturers end up in criminal courts, and there are even fewer criminal convictions with people going to jail. It seems big money can always buy its way out of trouble.

In 2014, BAT's annual report made allowances for contingent liabilities for lawsuits they faced in a list spanning over 15 pages. In early 2019 media reports claimed that SARS had accused BATSA of 'misrepresentations' leading to an alleged loss of about R140 million in excise duties. BATSA denied this. One could go on with this sort of exercise, but I think I have made my point. The big boys are hardly as clean and as innocent as they make out to be.¹⁰⁷

A good deal of what we know about the dirty tricks of the established players in the South African tobacco market comes from an affidavit made in December 2015 by the FSS whistleblower Daniel van der Westhuizen. It was leaked via a Twitter account in 2016 and widely reported in the news.¹⁰⁸ A one-time policeman and investigator for the Road Accident Fund, he was approached by FSS in May 2012, and after an interview in Johannesburg with Derick Vosloo, Mike Vosloo and Stephan Botha, he was promptly thereafter offered a job. Van der Westhuizen claimed that he was informed during his interview that he was to be deployed by FSS to work for Unilever, but when he started on the job he was told he was in fact going to be investigating the illicit tobacco trade on behalf of BATSA. He was assigned the role of project

team manager, overseeing several investigations and investigators, who were referred to as 'handlers'. According to Van der Westhuizen, their primary job was to spy on the commercial competitors of BAT. 'Our work mostly revolved around conducting surveillance on its [BAT's] rivals, like Carnilinx and Gold Leaf, and then reporting back. But soon it escalated into far more serious stuff, like paying off people.'¹⁰⁹ Apparently, this spying included obtaining information about BAT's rivals through various contacts in law enforcement agencies.¹¹⁰

'At all times I was told by FSS that the objective of my employment was to stop the illicit trading of cigarettes, which was invariably linked to criminal syndicates. I was told that the law sanctioned all of my investigations, interception of communications and breaches of the right to privacy of the various persons [we investigated] because we worked within the law with law enforcement agents. I have now discovered that the entire basis of my employment was premised on fraud; there was no proof of any illicit cigarette trading; there was no valid or lawful basis upon which the privacy of BATSA competitors could justifiably be breached. In hindsight, the purpose of my employment was for BATSA to deploy my investigative skills together with back-up from corrupt SAPS and SARS officials in order to disrupt the business of BATSA's competitors.'¹¹¹

Van der Westhuizen went on to implicate Stephan Botha of FSS; Johann van Rensburg, a BAT employee in charge of BAT's anti-illicit trade section in South Africa; Jan Vermaak, Laura Bamber and Martin Potgieter of BATSA; and Colin Denyer (an alias seemingly for Colin Daniels) and Allan Evans of BAT's East and Central African antiillicit trade division operating from the United Kingdom.

His affidavit is remarkable for a number of reasons. Firstly, much of what he alleged he backed up with annexures in the form of documentation, records and text exchanges. He gave very specific details and named people and events that could easily be verified. Secondly, the affidavit is a key piece of evidence that connects all the various players implicated in racketeering, money-laundering, corruption and bribery, fraud, industrial espionage and dirty tricks. Thirdly, this affidavit had been in the public domain for some years, and I know for a fact that the law enforcement agencies in South Africa and United Kingdom have had access to it for a long time. Yet no action has been taken.

The affidavit also provides evidence of a so-called ‘project management plan’ drawn up by FSS on behalf of its client, BATSA, which set out the terms of engagement and a programme of action. It reads like an apartheid-era security intelligence project. The plan was to involve all agents of FSS and was to commence on 30 April 2014, shortly before Belinda Walter lobbed her hand grenade into SARS. The plan was apparently regularly reviewed and updated. In essence, it relied on collaboration with former colleagues and associates in the law enforcement agencies. Page 7 of the plan listed the partners of FSS by name: the South African Police Service, the Directorate for Priority Crime Investigation (the Hawks), the police Crime Intelligence division, the Asset Forfeiture Unit, and the Customs and Traffic Control Policing Unit. The absence of the State Security Agency is interesting, as some of their agents are known to have played a pivotal part in the FSS’s work. The plan contained references to payments to be made to law enforcement officials: ‘Estimated costs of disbursements to be allocated to law enforcement agents at approximately R2000.00 per month whereas a petty cash amount of R5000.00 will be sufficient.’

According to Van der Westhuizen, BAT was ‘paranoid’ that the plan would become public knowledge. ‘External leakages through law enforcement which need to be eliminated by sharing and directing information through a group of trusted officials.’ Accordingly, these officials were to be the subject of prior screening. Because of BAT’s concern about reputational damage if the plan was to become widely known, Van der Westhuizen was required, as project manager, to continuously monitor the risks and to liaise with law enforcement agencies on ‘risks that could be perceived’.

Citing what he called political connections, which according to him BAT had ‘cemented’, Van der Westhuizen quoted from the plan again: ‘Client has the potential to overcome political and socio-economic obstacles that might have a direct influence of certain aspects of the project management plan.’ This issue of political influence has caused me to ponder the behind-the-scenes influence of the big tobacco companies. It is no secret that the small manufacturer Carnilinx has made donations to the EFF or that Yusuf Kajee of Amalgamated Tobacco Manufacturers was an outspoken supporter of Jacob Zuma’s presidency. But we do not really know to whom the big boys have donated money, or how much and for what reasons. What we do know is that, as the acting SARS commissioner, Ivan Pillay, wrote in April 2014: ‘Our own

experience has revealed that certain companies and individuals in the tobacco industry have penetrated a fragmented government system and have been using some elements and access to political parties and persons to further their own interests.’ Pillay also expressed his ‘discomfort with certain aspects which appear to be unfolding in this [tobacco] sector’. SARS itself had been ‘approached no less than at least four occasions, most notably in the past two months, by politicians attempting to represent and “deal” on behalf of certain players currently in dispute with SARS.’ Pillay was explicit in setting out how ‘at least one TISA member had engaged in very questionable activities, including uncompetitive activities, corruption and bribery both in terms of South African law and that of foreign jurisdictions, money-laundering and facilitating tax evasion of individuals in South Africa.’¹¹² It was patently clear to whom he was referring.

The campaign envisaged by FSS’s project management plan involved ‘disruptive actions in the form of continuous interventions on known [retail] outlets in such a way that these outlets would no longer find a desire to trade’ in the products of BATSA’s commercial competitors. What this suggests is that FSS was to somehow get law enforcement agencies to carry out raids and inspections on retailers and those shops stocking cigarettes of the smaller manufacturers in order to dissuade them from dealing in the goods of BATSA’s competitors. It was a kind of psychological threat. The ultimate aim was to increase BAT’s market share. BAT apparently considered these sorts of tactics as ‘highly effective’. Page 19 of the plan stated that ‘disruption will be an integral part of this project’.

Spying and surveillance were also part of the scheme. The document listed the surveillance equipment required as ‘drones, beacons, FLIR [security cameras], CCTV and the use of [SpiderPro] Black Widow specialised technical equipment, PTC 606 camera to be aligned with Intel Ops’. For its operations, the plan foresaw ‘the hiring of temporary surveillance agents in areas where FSS cannot gain entrance and/or might be prohibited by law to do so’.

One form of spying in which FSS engaged involved placing tracker beacons on trucks belonging to BATSA’s commercial competitors, such as Carnilinx. A tracker beacon is just a fancy name for a movement control bug. It is a small device placed on a vehicle in a spot where it cannot be seen, and it

basically contains a SIM card for sending a continuous tracking signal to the recipient. In this way, whoever placed the bug on the vehicle would be able to monitor the movement of the vehicle in real time, at any time. It provided a means to check where the trucks of Carnilinx collected illicit tobacco and where they delivered it to. In addition, FSS was also able to obtain details of the frequency of deliveries being made by Carnilinx and the identity of those to whom they were supplying their stock – the type of information that any competitor would love to have.

According to Van der Westhuizen, the person whose job it was to place these bugs on trucks for FSS was a man known as ‘Rassie’ – his real name being Johannes Geldenhuys. Van der Westhuizen described in minute detail how Rassie would first determine the make of the truck that was being targeted, and then visit a dealership that sold such trucks, pretending to be a potential buyer. Rassie would, by inspecting the truck, determine its features and the most suitable place on the truck to fit the tracking bug, to avoid its being detected by the driver or owner. Once this part of the operation was concluded, a so-called ‘prober’ would be dispatched to conduct regular surveillance at night in the area where the trucks were parked. The purpose would be to determine when the truck was stationary and unguarded for a period long enough for Rassie and his team to enter and install the tracking bug. As soon as the ‘prober’ was satisfied that the coast was clear, Rassie and his team would be notified and they would go to the scene, usually someone’s private residence or the premises of the tobacco manufacturer. According to Van der Westhuizen, Rassie would wear an ‘all black catsuit on such occasions’. Support staff and ‘probers’ would keep a lookout. In some cases, fences had to be scaled and other ways had to be found to access the trucks. Patently, this would have amounted to illegal trespassing and possibly even housebreaking. Apparently, these devices would remain on the undercarriages of the trucks for weeks at a time. Inevitably their batteries would run out and they would then be retrieved in exactly the same type of late-night undercover operation.

This unlawful tracking of commercial competitors did not always work according to plan, though. According to Van der Westhuizen, on 16 June 2012 Carnilinx somehow managed to detect a tracker and magnetic tracking device on one of their trucks. Carnilinx’s directors weren’t sure of the origins of the device and years later Mazzotti would tell me that he had suspected BAT and

FSS but wasn't sure. Carnilinx called in an expert and asked the matter to be investigated. A private investigator got onto the case and soon enough came to discover that the SIM card in this specific device had been used in a mobile phone at a time when it was activated. The mobile phone was traced to an employee of FSS. What Van der Westhuizen didn't know or perhaps elected not to disclose in his affidavit, though the fact was recorded in a police criminal docket in 2014, was that the SIM card also linked back to the South African Police Services Crime Intelligence division. I checked with Carnilinx director Adriano Mazzotti years later, asking what happened to this matter. Although the case was reported to the Hawks at the time, nothing came of it and nobody was ever held to account. I mention this solely to demonstrate how incestuous the relations were between FSS, BATSA and the Illicit Tobacco Task Team.

The network of spies employed by FSS – which amounted to what Van der Westhuizen called a 'substantial contingent', about 170 in number – were involved in other dirty tricks that targeted the commercial competitors of BATSA. Each had a unique code number assigned to them, using the euphemistic acronym 'SIN' followed by a three-digit number. They became known as the 'SIN spies' or 'SINs'. They listened in on private conversations by intercepting telephone calls, placing hidden cameras at their competitors' work places and homes, and followed their vehicles to determine their movements. The spies also stole commercially sensitive documents such as production sheets, schedules and invoices, and handed these to their FSS 'handlers', who would then pass them on to BATSA. They were even allegedly involved in active sabotage. Van der Westhuizen cited an example where an old rag was thrown into a cigarette machine to jam and damage the expensive equipment. The spies also had to determine when loaded trucks left or arrived at factories, so as to enable FSS to tip off their pals in the law enforcement agencies, who would then conduct raids and stops and, in so doing, frustrate the operations of BATSA's rivals.

One insider would describe his activities as part of FSS in 2016 to a journalist. 'We did some serious shit. BAT has big money and we used police, intelligence agents ... to spy on and disrupt the opposition.'¹¹³

All these spies were paid in cash because, according to Van der Westhuizen, neither FSS nor BATSA wanted any paper trail leading back to

them. To avoid any shadow of doubt about BATSA's direct involvement in the payments of these spies, Van der Westhuizen provided specific examples of receipts that implicated Johann van Rensburg, a senior BATSA employee who was in charge of BAT's anti-illicit trade section in South Africa. The spy codenamed SIN160 was paid R4,600 in cash on 15 April 2015, with Van Rensburg and Jan Vermaak signing as witnesses. In July 2017, one spy was even paid for having stolen stock from a small factory.

The receipts also confirm the incestuous nature of the relations between the multi-agency Tobacco Task Team, FSS and BATSA. In August and September 2013, Lt Colonel Hennie Niemann was a co-signatory with FSS's Derick Vosloo for cash payments made by FSS to its spy Wouter Pretorius. Van der Westhuizen had little doubt that neither FSS nor BAT had kept accounting records for purposes of employment tax. He estimated the total amount paid over the years to FSS's spies to be about R150 million. If this is so, that's a hell of a lot of corruption. The spy network was certainly well resourced.

Further evidence has come to light that implicates the parent company BAT plc in the South African spy ring. During December 2012 Allan Evans took over the position from Colin Denyer as BAT's senior investigations manager for Africa. At the same time Colin Denyer was promoted to BAT's Europe Anti-Illicit Intelligence Unit. In the same month, Evans and Denyer stayed at the InterContinental Hotel in Sandton and took FSS agents on a tour through BATSA's manufacturing plant in Heidelberg. It seems that around this time several FSS agents received training from Denyer and Evans and others from the UK who all were ex-British intelligence officers. Those who passed then received certificates for having completed courses such as a 'defensive surveillance training module', complete with the BAT logo embossed on them and signed by both Denyer and Evans. It appears as well that Evans had compiled an 'information package', which was then handed to Johann van Rensburg of BATSA, who, in turn, handed it to the head of the multi-agency Tobacco Task Team, Brigadier Casper Jonker of the Hawks.

This is not all that we know about BAT plc's local involvement. On 20 March 2014 the *Mail & Guardian* reported that BATSA had been secretly paying people employed by commercial competitors for insider information and, further, that at least six individuals were supplied with Travelex foreign currency cards by BAT plc. This allowed the company to transfer cash to these

‘spies’ in a way that was not subject to the restrictions of foreign exchange and money-laundering regulations in the United Kingdom or South Africa.

Travelex foreign currency cards are basically the modern version of the old traveller’s cheques. It is a type of debit card, on which money can be loaded, usually in dollars, pounds or euros, and then withdrawn at any ATM worldwide. The practice of using such prepaid cards has been highlighted by authorities internationally as a means for organised criminal networks and drug-dealers to move money offshore and across jurisdictions.

In 2015 it became public knowledge that, over a period of at least eleven months since 2013, BAT plc had paid one ‘Travelex spy’ in South Africa about £3,000 a month, or about £30,500 in that period, partly in cash and partly by loading a Travelex card registered in the name of a BAT employee based in the United Kingdom. In turn, the Travelex spy withdrew the money in South Africa with nobody the wiser: all of these transactions were totally ‘off book’. However, the Travelex spy had run into difficulties explaining this income to SARS. The whistleblower then turned first to BATSA, and then later to BAT plc, for assistance in getting records of the exact number and value of payments made for income tax purposes. But neither BATSA nor BAT plc responded at first. They left their Travelex spy to hang out to dry. Eventually, the Travelex spy resorted to writing directly to BAT plc’s chief financial officer, then Ben Stevens. In the correspondence, copied to BATSA’s man on the Illicit Tobacco Task Team and at TISA, Martin Potgieter, the Travelex spy was adamant. ‘Explain and give records, please. I had no reason or suspicion that the method of payment and use of the cards was not legitimate. In fact, [senior BAT employee] Mr Evans assured me that the same method of payment is used by BAT UK around the globe for payment of agents ... I am no longer convinced that the method of payment is appropriate and lawful.’¹¹⁴ Of course, it wasn’t lawful. BAT plc knew it, BATSA knew it, TISA knew it. It was Ewan Duncan, head of BAT’s Anti-Illicit Trade Unit, who blinked first, replying with assurances on a BAT plc letterhead that their interactions had been ‘legal and proper throughout’, and that any information given to them had been passed on to the relevant South African authorities. And who were these supposed ‘authorities’? None other than the Illicit Tobacco Task Team.

I would find more evidence of how FSS went about recruiting people on

behalf of BATSA to bribe their way around their business competitors. One set was contained in an email string between employees of FSS and BATSA. On 29 April 2014, a message was sent from the email address of Johann van Rensburg in his capacity as BATSA's 'anti-illicit head' to FSS, asking: 'Plse let me have a report of the info/successes the mentioned SINs submitted the past month and what the plan is for the month going forward.' This shows that BATSA was well aware of the contingent of over 170 SIN spies, and even sought direct feedback about their activities from FSS.

I found another email which gave some insight into their devious operations. This time, one Gary Vickers of FSS reported back to Derick Vosloo of FSS. The heading of the email read: 'Recruitment Strategy for in-place sources at GLTC [Gold Leaf Tobacco] and Alltrans Logistics'. In the body of the email, the whole crooked plot was set out in some detail. 'Please note that after receiving the above tasking, members set up the following strategy to recruit in-place sources at GLTC. ERD left an advertisement at GLTC and All Trans, with a contact telephone number, stating that a new Tobacco Company was to be established in Heidelberg, and that they were looking for personnel with experience in the tobacco manufacturing, packing or transport fields. There have, to date, been several responses daily to these adverts. A list of possible sources has been compiled. The next step was to contact the in-place workers at GLTC and notify them that the advertising company is Oasis Recruiting and that they are mandated to interview and recruit candidates on behalf of the said tobacco company. This has been done. A quotation was obtained to print business cards and magnetic stickers so that the cover for the members posing as "recruiters" is believable. It is envisioned that this cover remains in place and is placed at the disposal of any operational members requiring a cover in future. Meetings with responding candidates have to be finalised and confirmed by Thursday 2012-06-21, so that the interviews can be conducted on Saturday 2012-06-23. Approval of the attached quotation needs to be obtained as soon as possible, if in order. The company particulars for Oasis Recruiting are as follows ...'¹¹⁵

Basically, this operation entailed the creation by FSS of a completely fictitious employment recruitment agency, styled Oasis Recruiting, and the production of job adverts for a fictitious tobacco manufacturer, inviting workers from Gold Leaf and All Trans Logistics to apply for jobs and creating false expectations of a better life for them. Fake business cards and magnetic

stickers for vehicles were produced for Oasis Recruiting, and FSS operatives posed as 'recruiters' to 'interview' applicants. These were no interviews for new jobs. It was all part of a sophisticated ruse to lure unsuspecting workers in the tobacco industry into their web of spies.

In 2015, it became public knowledge that SARS had put through a request to Her Majesty's Revenue and Customs (HMRC) in the UK. It referred to the Travelex spies, their 'peculiar relationship with BAT' and their 'concealed transactions', and remarked: 'These South African residents do not reflect this income in their tax returns. At face value, these transactions fall within the statutory definition in terms of anti-money laundering legislation in South Africa.' In the correspondence between the two agencies, 'possible offences' identified included income tax evasion, PAYE tax evasion by BAT plc, and money-laundering. Essentially, it meant this. The income earned by the Travelex spies needed to be taxed in South Africa, because South Africa uses a residence-based tax system. It means that regardless of where your employer is based, if you work in South Africa your income is taxable there. Not declaring your income is a form of tax evasion. On the other hand, if the Travelex spy was considered an employee of BAT plc, then BAT should have deducted income tax on a monthly basis and paid this over to SARS and issued a yearly certificate to the employee. Not doing so would amount to PAYE tax fraud. Again, tax evasion in its most simplistic form. Both SARS and HMRC declined to comment on this issue, saying they could not comment on 'taxpayer information' or 'operational matters'.¹¹⁶

In its exposé of 30 March 2014 the *Sunday Times* reported that it had a recording of a conversation between a senior BAT official and one of its secret agents, in which the tobacco executive told the agent not to 'sell us out' by spilling the beans on the spying.

Speaking of the Travelex payments, reported *City Press*, the BAT official said: 'I would not volunteer [during your meetings with the authorities], unless you are legally forced to, where the sources come from. We will never reveal who we pay because of the nature of the business and the danger to the individuals.'¹¹⁷

PART 3

THE WAR

Let's steal it: the story of a spy

Basil Baloyi (not his real name) grew up in central Johannesburg in the 1970s. He had been hustling and making deals all his adult years. Life was tough and he never really knew where his next meal or income would come from. Things changed for him somewhat when he was offered a job by a private security firm engaged by a multi-national tobacco firm in early 2013. He realised his employers weren't too worried about doing everything by the book, and that suited him as much as it suited them. He was going to get paid in cash at all times. The multi-national didn't want to leave traces of their funding, so the money would be paid to the security company, who in turn had a system to pay its agents in cash. He was now a spy and undercover operative, ostensibly helping the private security outfit to combat illicit tobacco scams. A contact, referred to as his 'handler', was assigned to him. They would meet from time to time at coffee shops or in restaurants. Life was suddenly not so hard anymore.

Two tobacco manufacturers worried Baloyi's 'handler' tremendously. One had been in the market since the early 2000s – Gold Leaf Tobacco – whereas the other was one of the new kids on the block – Carnilinx. With their own 'cheapie' brands of cigarettes, they were steadily eating into the smokers' market, and this was a cause for concern for his clients. The more Gold Leaf and Carnilinx gained market share, the less income there was for his clients. Something had to be done about them, and Baloyi was going to help. Sitting at a table in an unassuming sidewalk café in the centre of the city, the handler and Baloyi were having lunch while discussing their next steps. Sipping his cool drink through a plastic straw, the handler told Baloyi, 'Gold Leaf is a problem. They've grown over the years, they have a huge market in the

country nowadays. We need to deal with them.’ Baloyi just nodded and listened.

‘We’ve come up with a plan. We need to sow discontent among the management at Gold Leaf and staff. This is where you come in,’ said the handler. Baloyi just listened. ‘We think that if we can steal some of the stock, just a few cartons here and there, in a way that will make Gold Leaf’s management think their staff are involved, it is likely that they will begin to behave in a way that may just cause the staff to revolt.’ Baloyi understood. He needed to get close to workers at the Gold Leaf factory and get them to help him steal cartons of cigarettes. Just enough that it would flag on the stock control system of Gold Leaf. The rest was predictable. Clearly the managers would suspect staff and call in the police and soon enough all the staff would be treated as suspects. This would no doubt lead to protests and arguments and disrupt the manufacturer. It was a clever but devious plan.

Baloyi wasn’t in a rush. He had plenty of other deals on the go anyway. He would hang out at the taxi rank near the factory at closing hours. Baloyi knew if he hung around, pretending to be a commuter for long enough, people would begin to recognise his face and perhaps even speak to him. Sometimes as the passengers sat in the taxi homeward bound, Baloyi would chat with the workers, asking them about the factory, trying to get a feel for who was who and looking to find any titbit of information that might also be passed to his handler for some extra cash. Sometimes he was lucky, sometimes not.

One afternoon, early in 2013, a woman in a taxi mentioned to her co-worker that she was battling to pay for school shoes for her kids. Baloyi overheard this and studied the woman closely. He had found his mark. From that day on, he would make sure that he hung around long enough until this woman stood in line for a taxi, and then he would join the queue and travel in the same vehicle as she did for a few days. He would greet her courteously and she would greet him back. A few days later, Baloyi brought with him a cash voucher for a retail outlet that sold school shoes. As they were all seated in the taxi, he spoke up loudly and asked who wanted the voucher for which he had no use. He made sure to sit near the woman on that day. Her eyes lit up when he spoke, and she immediately began to talk to him. ‘I really need that my brother, I really need that.’ Baloyi smiled and gave the voucher to her. When Baloyi got off, she smiled at him, waving the voucher at him as if

saying thank you. Over the next few days, Baloyi made sure to meet the woman at the taxi stand. By now they were becoming friends.

Baloyi then made his next move. He told the woman that he wished to buy some cigarettes but that he found the wholesale price exorbitant. ‘Would you mind selling me just one carton from the factory at a discount?’ he asked one day. At first hesitant, she thought back to the time when the man had come to her rescue when she desperately needed school shoes for her kids. One carton wouldn’t make such a big difference in the bigger scheme of things at the factory. ‘Which brand were you looking for?’ she asked. ‘Voyager Light, please, my sister. Just one carton.’

That afternoon, as both got into the taxi, she took the seat next to Baloyi. Out of her bag she lifted a carton of Voyager Light and handed it to him. He made for his wallet in the back of his jeans, but she stopped him. She put her hand out, signalling it wasn’t necessary. Baloyi made as if to resist, and then left it at that after her protestations. He had her now, he thought.

The very next day at the taxi rank, Baloyi changed tack. This time he wasn’t so friendly anymore. This time, he demanded from her a whole carton of Voyager Gold. She put up a brave face and tried to resist, but when he began to threaten to report her to her employer, she backed off. After all, what is just one carton of cigarettes when millions are being made weekly? So, she capitulated and that same afternoon Baloyi had a carton of Voyager Gold handed to him.

Baloyi now moved into overdrive. The next day she brought him two cartons of Chicago cigarettes. Not only was he spreading his demands across the Gold Leaf brands, but he was upping the volumes too. This continued, the next day delivering six cartons of Sharp cigarettes. It is anybody’s guess how many times this sort of thing had occurred before and at how many of the smaller local tobacco factories. The story of Baloyi is but one of many more such tales. What we do know, because the evidence was ultimately presented before the High Court, is that Baloyi was paid by his handler on Wednesday, 17 July 2013, for a job well done.

How effective this scam was is anybody’s guess. One source that I spoke to about this practice told me a very interesting story. He said that, at times, when there was pressure on the handlers and spies to deliver ‘results’ in order

to justify their exorbitant fees, they would 'plant' these cartons on unsuspecting small shops and informal traders, selling them for almost nothing, only to arrange for a 'bust' soon thereafter. Sometimes the bust would lead to media publicity or a criminal case being opened. All in all, the impression would be created that Gold Leaf and Carnilinx, in these instances, were selling their cigarettes at below market value, probably because they were illegally manufactured or made from smuggled tobacco. It was a win-win situation for their competitors. My source suggested that a variation of this scheme was to plant stolen stock in the cargo of unsuspecting small traders and dealers as they were exiting or entering South Africa through border posts. A tip-off or sniffer dog would pick up on the hidden stock, and the result would be another 'bust' and some corresponding media attention, creating the impression that Gold Leaf or Carnilinx stock was being smuggled into or out of the country. In this handy way, two birds would be killed with one stone.

Honey Badger and the unravelling at SARS

In its 2011/12 annual report, SARS highlighted the tobacco industry as a high-risk sector in the South African economy and publicly announced that it was intensifying its enforcement efforts, as part of its compliance programme. A big SARS project, later better known as ‘Honey Badger’ was born out of this. Whenever I explained the strategy of Honey Badger, I used the analogy of a waterbed. If you push on one end, the water is displaced and pushes up in a bulge on the opposite side. One can consider the entire tobacco industry and all its forms of non-compliance and criminality as the waterbed. If, from a law enforcement perspective, you only focus on one part, and push on one end of the bed, non-compliance and criminality will be ‘pushed’ away and manifest itself elsewhere in the industry. The logical approach, therefore, is to apply equal pressure across the entire waterbed at the same time. This simultaneous thrust was, in its essence, the approach of Honey Badger. We initiated it towards the end of 2010 and kept on refining it as we went along.

When it became clear in 2012 that the so-called multi-agency Tobacco Task Team – comprising the Hawks, police detectives, National Prosecuting Authority prosecutors, police Crime Intelligence officers and members of the State Security Agency – weren’t going to include SARS, I instructed all the units I managed never to participate in any cases where we could expose SARS to reputational risk.¹¹⁸ I did not want us to be accused of preferring one part of the industry, the big boys, at the expense of others. As far as I was concerned, big tobacco had effectively captured some of the law enforcement officials in the task team, to the extent that they dictated who to investigate and what to focus on.

I also realised that we faced a big challenge because we were so reliant on the police, the Hawks and the NPA prosecutors to help us conclude our criminal investigations. There was always a tension there. To alleviate this, we began to invest our energies in what we did have control over, such as conducting tax and customs and excise audits, penalising players and applying hefty fines, and ultimately revoking their manufacturing licences if need be. We continued to conduct criminal investigations, ultimately racking up over twenty such cases, all registered at the police, though these were never prioritised by our cousins in these agencies.

It was incredible for me to see Project Honey Badger unfold in the early months of 2014. The SARS Customs division was deploying its people throughout the country to stop and check tobacco imports and exports. Their risk committee was liaising constantly with investigators, getting ready to cancel licences where evidence was sufficient to do so. The Large Business Centre was deploying some of the best technical brains in the country to dig deep into the complicated international finance structures of the big companies. The Excise division was constantly monitoring monthly inflows and advising and participating in audits conducted by teams comprising different disciplines. The analysts in the Risk and Strategy division were churning out numbers in complex graphs and reports, picking up anomalies and directing all the various parts of SARS towards areas where risk was indicated. The Tactical Interventions Unit was conducting weekly inspections of all tobacco factories, big and small, and recording stock, feeding these numbers to my office.

Simultaneously, the National Projects Unit was continuing with some of the existing criminal investigations and ongoing prosecutions throughout the country, while getting ready to start on new cases and audits. Lifestyle questionnaires were delivered to selected individuals, and several audits had commenced. The High-Risk Investigation Unit kept feeding information about smuggling towards the centre, from where it was distributed to the different investigative units. They did real slog work, checking trucks coming and going at identified premises. They would give weekly numbers to the centre and we would compare these with the stock recorded by the Tactical Interventions Unit. The unit's coordinator, who also doubled as SARS's representative in the Financial Action Task Force, was considered a foremost expert in typology studies in the tobacco industry. The Central Projects Unit

was preparing to bring preservation orders on selected companies where we believed there was a risk of dissipation of assets. Officials from the Evidence Management and Technical Support unit supported these inspections by downloading data from computers and analysed these, guiding audits, investigations and inspections, and providing legal advice. The Criminal Investigations Unit continued with existing cases and were busy adding new ones to their Case Management System. SARS's competent authority for international liaison had already set up lines to other jurisdictions worldwide and asked for specific information and joint audits and investigations. All these were in the process of being formalised. The United Kingdom's tax and customs authority even visited us to learn from how we were dealing with the tobacco industry. They were astounded by our operation. I can assure you that there wasn't a tobacco manufacturer in the country that didn't know we meant business.

By early 2014, nevertheless, there were clear warning signals that SARS and its enforcement components were under threat. Yet we could not have predicted that the initial crack would be prised open by a handful of members of the multi-agency Tobacco Task Team who had come to realise that we were onto their corrupt networks, their shady dealings with certain dominant players in the tobacco sector, and had the evidence to prove it. This made them nervous enough to start surveillance operations on some of us and our families, spread fake rumours and 'intelligence dossiers' to discredit us, and make defamatory accusations against us. This was all about self-preservation for them and their cohorts. They had to destroy me and those investigative units at SARS that had the evidence of their wrongdoing. And they succeeded.

On 25 March 2015, almost in the midst of the massive disinformation campaigns aimed at SARS, when droves of experts and managers were leaving, SARS spokesperson Adrian Lackay also resigned. He couldn't take what was happening at SARS anymore and just quit. Soon after, he penned a whistleblower's report for submission to the parliamentary Standing Committee on Finance and Joint Standing Committee on Intelligence. This document was leaked by one of the committee members about a month later, and nothing much came of what Lackay had put to parliament. Instead, he was sued by SARS, then overseen by commissioner Tom Moyane, for R12 million for defamation. As I was writing this, news broke that both SARS and Moyane had withdrawn their lawsuits against Lackay.

In his report, Lackay explained how the fracas at SARS had started and how it had evolved.¹¹⁹ ‘The primary protagonist who triggered off this saga in May 2014 was Ms Belinda Walter. In my view her attack on Mr Johann van Loggerenberg was based on a number of reasons but appears to have been based on her emotional disappointment of a failed relationship at the time, the failure of her attempt to blackmail him and a fear of the consequences of her financial affairs, and the existence of the data and evidence of her wrongdoing in his possession.’ He continued: ‘In essence, her initial allegations were rather basic and undeveloped, and were aimed at insulting his person and his fitness for office. Her narrative developed in time as she came to overlap with other persons and other interests, and she adapted her approach accordingly, to eventually focus around a so-called “rogue unit”, a charity Van Loggerenberg is a director of [Wachizungu] and now lately his qualifications. She also started engaging the media – most notably a particular journalist with whom she shares a specific history, Mr Malcolm Rees. To my knowledge the data extracted from her cellphones demonstrates that Ms Walter had, at a time before he even knew of her existence, in conjunction with her erstwhile client Carnilinx, sought to advance stories to Malcolm Rees, which suggested some kind of impropriety in respect of the business associations of a Mr Edward Zuma and a Pietermaritzburg-based tobacco manufacturer [Yusuf Kajee]. This email sets out quite clearly what was intended by Ms Walter at the time.’

Lackay then explained in some detail how the agendas of Walter overlapped with those of the Tobacco Task Team. ‘I believe that what Ms Walter was completely unaware of, but very quickly adapted and utilized to her advantage, was the acrimony that had already existed between Mr Johann van Loggerenberg in his official capacity and certain officials in other state agencies (more especially the Anti-Illicit Tobacco Task Team referred to) who in his view had busied themselves wittingly or unwittingly with advancing commercial interests of businesses, participating in illegal tracking, allowing smuggling to occur under the guise of investigations, duping state agencies into believing certain “intelligence reports”, to name a few. Mr Johann Van Loggerenberg was outspoken about his views on this towards me and other SARS officials.’

Lackay gave the warning: ‘I believe that it certainly “helped” that they were known to her from a period before she and Mr Johann van Loggerenberg had met. For example, Hawks Brigadier Casper Jonker who headed the Anti-

Illicit Tobacco Task Team. It was Brigadier Jonker who took Ms Walter's affidavit for the purposes of her "complaint" to the Hawks and used it as reason why she did not want to testify under oath to the SARS.' Lackay named some of the officials implicated. 'A further example would be former Colonel Hennie Niemann, who was part of the same Tobacco Task Team, and a member of the police Crime Intelligence Division, and has recently left the police. He had already started to engage private persons as early as April 2014, prior to Ms Walter's complaint to SARS to seek "dirt" on Mr Johann van Loggerenberg. This matter was reported by Mr Johann van Loggerenberg via SARS to General Dramat of the Hawks at the time. It is this same Colonel Niemann who collaborated with Ms Walter and Mr Peega in a television broadcast on *Carte Blanche* on 22 February 2015 about the alleged "SARS rogue unit" and made untrue and slanderous allegations against Mr Johann van Loggerenberg and others.'

'I believe that these persons functioned in tandem with Ms Walter and the second set of protagonists with the sole purpose of ridding SARS of persons they were opposed to. I believe that their efforts had been unsuccessful for some years, and finally came to fruition when the circumstances presented themselves for the proverbial "perfect storm". I believe that it was virtually within a few days after the initial complaint that a fourth set of protagonists capitalized on the situation. I believe that these persons hail from within the institution and have had axes to grind with mainly Mr Ivan Pillay, Mr Pete Richer and Mr Johann van Loggerenberg and others affected for a variety of reasons. I believe that it very quickly became a case of "my enemy's enemy is my friend", and in a rather short space of time, people who would never have associated themselves with each other from any perspective began to advance each other's agendas. I believe that a fifth set of protagonists also capitalized on the opportunity created; consisting of persons who were formerly employed at the institution, but left under a cloud or were dismissed and/or are facing criminal charges. I believe that their efforts had been going on for some time and only served to bolster what the other groups were up to. I believe that former SARS official and NRG member Mr Michael Peega falls within this category. He was dismissed during 2009 for his involvement in rhino-poaching in a joint action between the South African Police Service (SAPS) and South African National Parks on Christmas Day whilst on leave. He was the original author of a so-called "intelligence dossier" in 2010 which

was advanced by politician Mr Julius Malema, and was given significant media coverage. SARS had submitted a line-by-line refutation of this “dossier” at the time to the SSA [State Security Agency], SAPS, the President of South Africa and various media outlets over that period.

‘I believe that the by-product of this sequence of affairs is that there are now multiple agendas being advanced by multiple groupings in different ways, sometimes in tandem or in concert, sometimes not, sometimes individually so and sometimes in collusion. The lack of reaching a conclusion on the true facts has harmed and continues to harm SARS as an institution, its public credibility and ultimately the fiscal prospects of the country.’

Lackay also expanded somewhat prophetically on the consequences of these events. ‘Multiple “camps” appear to have formed, some apparently supporting the suspended SARS officials, some supporting new management at SARS, some advancing individualistic agendas, some advancing agendas against new management at SARS; political or ideological motives are beginning to feature; and new “facts” which are partly based on truth but again mixed with fiction are being leaked to various media outlets. These media leaks have now developed to suggest some or other nefarious political motives by various political personae in the political landscape. Regular and known “information peddlers” have now also jumped on this situation and are beginning to advance their own motives.’

In 2018, the tax expert Cecil Morden presented a briefing to a Judicial Commission of Inquiry – the so-called Nugent Commission – appointed by President Cyril Ramaphosa to examine issues of governance and tax administration at SARS. He spoke of a significant slowdown in excise duty revenues received by SARS from the tobacco industry between the years 2014 and 2016 and the subsequent sharp decline between 2016 and 2018. He said that these were ‘clear indications of problems with enforcement at SARS as well as increased illicit trade’.¹²⁰ What this meant was that since the disruptions at SARS in 2014, and markedly so after Tom Moyane had taken charge of the institution in September that year, SARS had collected about 15 percent less in excise duties from the tobacco industry in 2017/18 when compared with 2015/16. This was estimated to be around R3 billion in revenue lost to taxpayers.

When we began to put Honey Badger together, there had already been a number of ongoing investigations at SARS into tax offenders, with different investigative units focusing on different players in the tobacco industry. Some cases fell under me, others not. So I immediately began to create a means to liaise across different divisions and units to combine our efforts. By this time, Hennie Delport's company Phoebus Apollo had been placed under curatorship as part of an asset forfeiture order. Another old case, that of Mastermind, resulted in its closure. Other cases I can mention here that were ongoing included Delta Tobacco, Westhouse, Carnilinx, Gold Leaf, BATSA, ATM and Rollex. There were many others, of course, but by law I cannot disclose their names. By the end of 2013, we had lined up our cases and were ready to move to the next level of the project.

But before we did so, I elected to warn the industry and wrote a public letter to all the tobacco businesses.¹²¹ Over time, I said, we at SARS had come to better understand the various types of *modus operandi* of suspected offenders within the sector. The primary manifestations of non-compliance in the tobacco industry included undervaluation, false declarations, round-tripping, ghost exports, tariff mixing, smuggling in all its guises, illicit manufacturing, unrecorded cash transactions, and income tax and VAT transgressions. I then went into some detail about what I coined 'techniques utilised by suspected offenders to counter attempts by SARS to address the crimes'. By then we knew that we were being spied on and discredited, as I explained: 'We have obtained evidence that certain traders have been actively engaging in illegally obtaining personal and private information on SARS investigators, through their own means or by paying for the services of private investigators to do so. It would appear that it was these traders' intention to seek ways to place undue influence on the SARS investigators so as to impact on the investigations against them. SARS will be laying criminal charges against these entities and individuals in due course.

'Related to this is an apparent new trend whereby suspects attempt to discredit SARS officials involved in investigations against them in order to divert continued scrutiny. SARS has evidence of an attempt by certain individuals to forge documentation and "plant" this within other law enforcement and intelligence agencies so as to disrupt the investigations against themselves. It is not uncommon for persons under investigation to make bold allegations of corruption against SARS investigators without

providing any evidence despite having been afforded the opportunity to do so. SARS has demonstrated in the past, and will remain steadfast in, its commitment to the citizenry to see cases through to their conclusion no matter how long they may take, without fear or favour.'

I also addressed the issue of fixers and brokers. 'A further disconcerting trend is the appearance of individuals in the sector boasting "access to SARS" and the ability to conclude "deals" with SARS on behalf of culprits who have been found to be non-compliant for payment. Ostensibly these persons request upfront payments for this service, of which certain amounts are supposedly intended for the relevant SARS official's benefit. SARS will not hesitate to act against such persons as soon as sufficient evidence is collected to prove these facts. Your members must stand warned of this practice. It has come to the knowledge of SARS that certain of these persons intimate that they are in a position to "resolve" disputes with SARS in an improper manner. Often the names of SARS officials are used and claims made of a "special relationship" that exists between these facilitators and SARS officials. In some cases money is asked upfront, supposedly to pay for the "services" of or access to the SARS official. In addition, SARS now has evidence implicating certain facilitators having assisted traders and taxpayers to "cook the books" in attempts to hide evidence of past non-compliance.'

Not knowing the levels of deceit unfolding around us, I spoke of our good relations with other law enforcement agencies. 'More than 15 criminal cases have been registered with the SAPS at this stage. In due course, more will be registered. Arrests in this regard are imminent. Moreover, tax assessments and customs schedules exceeding amounts of over R400 million have been or are in the process of being generated. SARS intends to collect the outstanding taxes, excise and duties and will, where evidence suggests, hold individuals personally liable for such liabilities.' Basically, I signalled we were ready to pounce, and afforded everyone the opportunity to come clean. Some responded; others adopted a 'catch-me-if-you-can' attitude.

In April 2014, a former prosecuting authority whistleblower received a visit from Lt Colonel Hennie Niemann of the Tobacco Task Team and two others, who were introduced as members of the Hawks. They were in fact both spooks from the State Security Agency, one being none other than Chris Burger. Three things seem to have got them hot under the collar. Firstly, there

was my letter to the tobacco industry. This was a little too close to home for their partners in the industry and it threatened to blow open their secrets and reveal the skeletons in their cupboard. Secondly, they knew I was dating Walter but didn't know what she had told me. Walter clearly concerned them greatly. Thirdly, they would also have deduced that she had been speaking to the media, with the result that damaging articles appeared implicating BATSA and the task team in corruption and money-laundering. It seemed that I had to go at all costs. So when they went to this whistleblower, they asked him outright for 'dirt' on me. The man recorded the interaction carefully, and reported it to SARS. SARS, in turn, reported it to the head of police detectives at the time, General Moonoo, and Hawks boss General Dramat. Apparently, undertakings were given that they would put a stop to this. But they didn't. Soon after, the whistleblower was again approached, this time by Tobacco Task Team boss Brigadier Casper Jonker. And this time they tried to lean on him heavily. Their aim? They wanted 'something' to use against me. Anything, they said. But the man was adamant. He told them that if I was corrupt, he would lose all faith in humanity and, not so politely, told them to shove it.¹²²

Around this time there was a spate of very suspicious thefts and break-ins at the homes and from the cars of key SARS investigators and legal advisers. In almost all instances laptops, memory sticks, notes, documents and hard drives containing critical and sensitive information on our cases were stolen. None of these crimes which we reported to the police were ever solved.

And there was more. In the same month, one manager of a unit under me reported that after attending a multi-agency workshop, some State Security Agency officials had asked him why I wasn't 'cooperating' with the Tobacco Task Team. One said, 'Tell JvL we are coming for him.'

On 29 April 2014, I again wrote an open letter to the tobacco industry.¹²³ In one paragraph, I specifically addressed some of the multinational tobacco manufacturers. 'The tobacco sector is not immune to tax base erosion practices. A quick glance at transfer pricing disputes worldwide shows the tremendous size of the problem in the tobacco industry and suggests it lends itself to such practices quite easily. Instances of transfer pricing, "treaty shopping" and thin capitalisation suggest estimated losses exceeding R1 billion alone. It is a lesser understood and even lesser talked about and

publicised subject and often not considered to be on the same scale as smuggling and diversion tactics.

The reality is, however, that tax base erosion in a developing state like South Africa has immense consequences beyond mere loss of tax-based income – it speaks directly to the culture and integrity of corporates and their commitment to a bright economic future.’

As for the dirty tricks employed in the tobacco industry, my message was clear. ‘Of great concern is a case where SARS has identified a number of South African taxpayers who have been employed by a manufacturer in a covert manner in order to provide information on their competitors. This has led to these individuals receiving remuneration, in some cases from offshore in a manner that can only be considered to be money-laundering. None of these individuals have declared this income for tax purposes when they should have and consequently have never paid tax. It would be advisable to point out to your members that businesses involving themselves in such practices open themselves not only to charges of tax evasion and money-laundering, but it falls squarely within the South African statutory definition of general corruption and most certainly in the equivalent statutory provisions of bribery in the United States of America and the United Kingdom.’

I did not hold back. ‘Instances where persons illegally access internal SARS information are also cause for concern. SARS has reason to believe that in some instances private investigators have accessed and provided confidential SARS information to some of your members including customs codes and trade data. In one instance a SARS official was paid in cash by a manufacturer for a copy of a SARS risk management committee internal memorandum. Not only is this illegal in respect of legislation administered by SARS, but it also amounts to possible corruption charges. As previously indicated, SARS obtained evidence that certain traders have been actively engaging in illegally obtaining personal and private information on SARS investigators, through their own means or by paying for the services of private investigators to do so.’

I also addressed how these private spooks were trying to discredit us and influence our cases. ‘It is now clear that it was these traders’ intention to seek ways to place undue influence on the SARS investigators so as to impact on the investigations against them. SARS registered a criminal case in this regard already. However, it seems that this request did not have the desired effect of

detering such continued practices. Once again it seems that a manufacturer has now not only accessed mobile phone records of competitors, as well as that of SARS staff, but also movement control data from the Home Affairs system ... SARS has identified how South African citizens were paid and additional funding provided in order to travel to a neighbouring country, to obtain information on competitors there in a manner that raises many legal and ethical questions.’

By May, BATSA publicly confirmed that SARS had commenced with in-depth audits of the tobacco giant.¹²⁴

In that month, we were ready to move Honey Badger to the level where we would register a whole number of criminal cases at the police, ask the prosecuting authority to freeze assets, bring our own asset preservation orders, issue assessments and commence with lifestyle audits of all individuals identified. But this was not to be. The project took a huge knock when Belinda Walter spearheaded the initial attack on me on 28 May 2014 and, later, on others at SARS and, ultimately, on the institution itself. On that day in May, Walter sent a complaint to SARS in a short email, basically attacking me. She was angry and very likely scared of what I was going to do with the evidence in my possession that implicated her and others in serious criminal offences.

Soon enough, I began to connect the dots. I came to learn that, on 27 May 2014, Walter and members of the Tobacco Task Team had met, including Niemann, Burger, Jonker and NPA prosecutor Johan van Heerden. They were upset with her for trying to squeeze BAT in London for millions by means of a legal demand she sent them on 23 May. They were also upset with various articles in the media which they knew had been informed by her. So they cut a deal. Walter was to withdraw her legal demand from BAT and her threatened demand against the State Security Agency, for which, in return, they promised not to prosecute her for offences she had committed. In exchange for this, Walter was to be ‘assisted’ by these fine gentlemen of our law enforcement agencies in her attack on me and, later, SARS.¹²⁵

More parts of the puzzle began to fall into place. In July that year, Walter had met with her original State Security Agency handler, Ferdi Fryer, founder member of the Tobacco Task Team, ostensibly because he was interested in her ‘complaint’ to SARS. Walter recorded the encounter and received counter-surveillance assistance from none other than BAT’s security agency, FSS, at

the request of Niemann. Walter and Fryer met in public at a café in Brooklyn, Pretoria, close to SARS's head office. Photos of the meeting and a video were taken by FSS surveillance people.¹²⁶ A recording of the conversation was made by Walter who, in turn, gave it to Burger. Assuming wrongly that I had contact with Fryer, Walter appeared hesitant to discuss issues with him, but she did record the details in an email of the same day, sent to several SARS managers, a particular sentence of which caught my eye. According to Walter, Fryer claimed to represent the interests of people who wanted to 'replace the leadership of SARS and remove the Minister of Finance'. How could Fryer possibly have known what was to unfold at SARS?¹²⁷

More warnings followed, and I kept on connecting the dots. In August 2014, I received a telephone call from a whistleblower, someone I hardly knew. It was a Friday afternoon when the call came in. 'Please, you must get this message to Ivan [Pillay].' Pillay was then still the acting commissioner for SARS. 'Tell him that a minister in Cabinet had told me that you guys are going to be hounded out of SARS, you are going to be humiliated, and you must never be able to work again.' I undertook to pass this allegation on to Pillay and did so through another SARS manager that same day. This event is on record at SARS because I also put it in a private email which I requested be placed on file with Pillay. I didn't know who this 'minister' was then, and only came to discover later when I asked the person. The whistleblower claimed that it was none other than Lynne Brown, who had been appointed as minister of public works in May 2014 by President Jacob Zuma. Brown would later become embroiled in allegations of state capture affecting the state-owned enterprises of Eskom and Transnet. Ever since, it had always puzzled me how Brown could possibly have known what was to transpire at SARS.¹²⁸

In September 2014, more red flags showed up. Another manager in a unit I oversaw reported contact with a former SARS official, Renier Crause. Crause had been instrumental in the initial stages of Honey Badger but had resigned overnight when confronted with evidence that he had taken bribes. The SARS manager reported the call to his manager by way of email: 'He first started with small chat, saying that he wanted to meet to discuss some cases over a pub lunch.' Over the pub lunch, apparently, the SARS manager concluded that Crause was now doing private investigative work. He gave an account, aspects of which I noted with some alarm. 'He referred to meeting SAPS on a weekly basis. He indicated he could introduce me to the [Crime

Intelligence] Colonel he deals with. He mentioned the recent matter in the press relating to Mr Van Loggerenberg and asked if I knew about it. I responded by saying only what I had read in the papers. He mentioned that big heads are going to roll in this matter.' The identity of the 'colonel' is pretty obvious.¹²⁹

Around this time, anonymous emails were pouring into SARS almost on a daily basis, always targeting me, Pillay, sometimes former Finance Minister Pravin Gordhan, sometimes SARS chief officers Gene Ravele and Barry Hore and a few others. I then fished out old notes I had made as far back as June 2011, when I had received reports that SARS officials were going to be 'implicated by NIA [National Intelligence Agency]' in a tobacco-related investigation.¹³⁰ In August 2014, I submitted a long list of more than twenty such incidents over the years: they all featured the tobacco industry and spooks and politicians leaning on us on behalf of players in the industry. The alarm bells had been ringing for some time. Nobody listened to me when I warned about this pattern.

The way we were attacked over the years always followed a typical formula. Some attacks were in the form of 'dossiers' and 'intelligence reports', which always carried the same hallmarks of false and unsubstantiated allegations that we were apartheid spies or remnants thereof, were racist or 'anti-Zuma', conspiring in some way or other against government and illegally intercepting taxpayers' communications. A variation of these attacks involved spreading similar rumours to politicians and powerful people, who in turn would then confront SARS. SARS was always able to defend itself against these sorts of attacks. In other instances, those attacking me or SARS either registered fake allegations and 'complaints' with law enforcement agencies or SARS or else infiltrated such agencies and directed their efforts towards undermining SARS. Incidentally, these documents acknowledged the existence of the unit known then as the Special Projects Unit and, later, as the National Research Group, and explained its approved mandates and operations (including work conducted in conjunction with other law enforcement agencies). Given this, I have always wondered why no law enforcement agency ever objected to the unit's existence throughout the years, until late in 2014. But by 2014, in my view, SARS was less effective in countering these sorts of attacks. There were too many of them by then, we had made too many enemies, and we had become too isolated.

These ‘dossiers’ all had the same characteristics. In most cases these were anonymous, unattributed to any state intelligence agency or official, and almost all had exotic names, like ‘Broken Arrow’, ‘Snowman’, ‘Check Mate’ and ‘Spider Web’. They showed poor grammar and spelling, they were always conspiratorial in nature and they contained wild, unsubstantiated and defamatory allegations that were vague and unsupported by any evidence. Needless to say, they were always ‘leaked’ to the media and high office. Their purpose was clear to any rational person. But these ‘dossiers’ became handy tools: they suited agendas.

So when Belinda Walter’s ‘complaint’ arrived on 28 May, it opened the proverbial door for others to kick wide open. Very soon afterwards, other groups and people with their own separate motives and agendas began to capitalise on the ‘complaint’ and joined in the fray. Old enemies, new ones, little ones and powerful ones, odd bedfellows, errant taxpayers, dismissed former staff, and entitled and ambitious staff, members of the Tobacco Task Team and their private eye pals, let loose with all they had. All the old ‘dossiers’ suddenly became very useful. The wall couldn’t hold.

Importantly, the initial complaint by Walter and its subsequent elaboration made no reference to any unit or ‘rogue unit’ at SARS. Her allegations were directed against me personally and suggested that I was corrupt. This is most evident in the terms of reference of the first investigative ‘panel’ instituted at SARS, known as the ‘Kanyane panel’, which functioned between July and August 2014. This panel was an abomination as far as I am concerned. I was never heard by the panel nor allowed to make submissions to them nor was I ever afforded a right of reply. I consistently denied all allegations against me as they were at this time. I say this because as these various ‘panels’ made successive ‘findings’, the allegations would continue to morph and adapt accordingly. If an allegation didn’t stick, it would be altered. At any rate, the panel found: ‘we are unable to conclude the evidentiary material presented by Walter in support of allegations is credible or reliable’. The ‘Kanyane report’ was leaked to the media on the day after it had been finalised, though I, the subject of the complaint, who should have been among the first recipients, only received a copy a week later after asking for it.

While I was reluctant to put myself through another ‘panel’ for fear of my rights being abused and disregarded in the same manner, I did agree to submit

to the subsequent ‘Sikhakhane panel’ on the advice of the then acting commissioner, Ivan Pillay. This panel commenced in September 2014. When it came into being, there were no allegations of a ‘rogue unit’. The notion of a ‘rogue unit’ was introduced by the panel itself, sometime later in October 2014, and only then included in the scope of their investigations. Paragraph 57 of the report explains: ‘Shortly after the panel was appointed and commenced its work, the media reports escalated and alleged the existence of a covert unit that had been operating at SARS.’ Since the first such ‘media report’ was dated 12 October 2014 and published in the *Sunday Times*, entitled ‘SARS bugged Zuma’, one can pinpoint the moment that the panel decided to extend its mandate. It was almost two weeks after Tom Moyane had taken over the helm at SARS.

Paragraph 57 also admits that by the time the panel decided to extend its mandate to include allegations of the ‘unit’, they had already interviewed me and therefore could not have heard me on any of these allegations. ‘By this time, we had already interviewed some SARS officials, including Mr. Van Loggerenberg.’ In other words, the panel did not afford me a hearing on these allegations.

Predictably, this report was also leaked to the media in December 2014 without me having had sight of it. In addition, despite what some would want the public to believe, the ‘Sikhakhane panel’ made no adverse findings against Ivan Pillay and Pete Richer, who were soon suspended by Tom Moyane on the basis of this report. This was confirmed publicly by the instructing attorney of the panel, Imraan Mohamed, of Hogan Lovells, who stated that the panel had made ‘no findings against Pillay or Richer’.¹³¹

The ‘report’ by the panel is an atrocious piece of work, not worthy of much response. It is a long diatribe, quoting full-length news articles and obscure books for pages on end; it is replete with contradictions, and its ‘findings’ are factually and legally wrong. That it has no legal standing I would come to discover later when I tried to take it on review. At best it was an ‘opinion’ and a bad one at that.

I had placed trust in the Kanyane and the Sikhakhane panels only to be terribly disappointed. By January 2015, I had reached the end of my tether. I believed the original ‘complaint’ was tantamount to a private dispute, which should have been treated as such. Instead matters had snowballed. An

intended disciplinary process by SARS in effect wanted to use my own submission and protected disclosures to the ‘Sikhakhane panel’ against me. Instead of SARS dealing with the evidence I had to hand of serious acts of criminality which implicated the tobacco industry and senior officials in various state institutions in corruption and money-laundering, I and others were being victimised. By then I had been subjected to several unfair processes, been isolated and publicly humiliated. I had just lost my father and my own health was also suffering. Many of my colleagues and friends had cut ties with me as a result of the media narrative. I called it a day.

But then came a ‘board’ chaired by retired Judge Frank Kroon. They conducted no interviews and no investigations and did not issue a report of any kind but a ‘media statement’ only. They merely considered the prior ‘Sikhakhane panel’ report and endorsed it in a very short time after being appointed. It was a travesty of justice, but at the time, in April 2015, it suited the powers that be just perfectly.

During December 2014, SARS also brought into being two other processes, one led by a firm of attorneys, Mashiane, Moodley & Monama, and a parallel ‘forensic investigation’ or ‘documentary review’ (depending on whose version you can believe) by KPMG South Africa under Johan van der Walt. The KPMG South Africa brief seems to have ended in January 2016. Of course, even its report was leaked to the media.

The initial allegations against me, and specifically against a particular SARS unit – known as the Special Projects Unit, later as the National Research Group and finally as the High-Risk Investigation Unit) – were that they had conducted ‘house infiltrations’, had broken into former President Zuma’s home and planted listening devices there, were involved in the deaths of former SARS officials, used ‘secret funds’ of over R560 million, ‘bought new homes and cars’, conducted lifestyle audits on prominent politicians, infiltrated politicians as bodyguards, spied on ‘top cops’, including former national police commissioner Jackie Selebi, spied on former President Zuma, entered into dodgy settlements with errant taxpayers, sought to ‘swing elections’, operated a brothel as a front, used a fundraising initiative for charities as a front, operated front companies, were deployed to ‘destroy careers of SARS officials’, purchased sophisticated spying software, intercepted taxpayers’ telecommunications and emails. It went on and on. I

had always denied these allegations emphatically but found it no coincidence that the KPMG report failed to reflect on most of these allegations in any meaningful way.

Later, both KPMG and Kroon would climb off their high horses. KPMG was first to admit their report was lacking according to their own standards and they consequently withdrew the ‘conclusions, recommendations and legal opinions’, repaying SARS the full fee of R23 million. Kroon, in 2018, before retired Judge Nugent’s Judicial Commission of Inquiry at SARS, conceded that he did not investigate matters and ‘perhaps’ should have, did not hear any of the people upon whom he pronounced, and actually had made a mistake to say the SARS unit was ‘unlawfully established’. Now, under oath, Kroon made the astonishing admission that the unit was in fact lawfully established and that he was wrong all along and would recommend that it be re-established!

The thing is that, by then, the war had been lost. By the end of 2015, over five hundred experienced staff had left SARS, the entire executive committee was gone, and the minister of finance had indeed been removed. SARS’s investigative units had been dismantled and broken, and non-compliance in the tobacco sector had reached epidemic proportions.

All these trends can perhaps best be summarised in figures. Using data provided by the All Media and Products Survey, we can say that the share of illicit cigarettes seems to have stayed at pretty much the same level of anything between 5 and 12 percent of the total market for many years until around 2008. These were the years when the TISA boys reigned supreme. From around 2009 to 2013, this flat trend spiked when a host of new independents entered the market. In 2013, the share of illicit cigarettes reached a staggering 22–26 percent of the total market. After that, as SARS’s Project Honey Badger kicked in and began to clamp down hard on all players, the figure dropped by 2014 to 17–23 percent. This is consistent with the evidence that was given before Nugent’s Inquiry. Then from 2015 things changed again, all of a sudden. The line spiked upwards, and markedly so. So drastic was this subsequent spike that, according to the numbers, the share of illicit cigarettes increased to a massive 27–34 percent of the total market. Beyond that, the line just climbed, reaching almost 40 percent by 2017. As the Nugent Inquiry concluded, this was a clear indication of ‘problems with enforcement at SARS’.

The extent of the problems at SARS has been shown by Professor Corn  van Walbeek of the University of Cape Town. In May 2018, he wrote that there had been, according to his research, a 20 percent decrease in the number of declared cigarettes in South Africa over the preceding two years. He argued that the decline in excise revenue demonstrated that illegal cigarette barons had taken advantage of a weakened revenue service. He said that the erosion of SARS, and its inability to stamp out tax evasion, had propelled the growth of the illicit market. ‘Companies are no longer declaring cigarettes.’ Van Walbeek added that there was a possibility that even the big boys had joined the game of excise evasion. ‘This is unprecedented. SARS has been weakened to such an extent that people are taking chances. I’m confident big industry has become more complicit in the illicit trade. We know consumption has fallen slightly, but not to this extent.’¹³²

In the fiscal year 2017/18, TISA’s members declared they had manufactured around 19 billion sticks of cigarettes. But, according to National Treasury’s published data, the entire tobacco sector, both TISA and FITA members and other unaffiliated entities in South Africa, had paid taxes on only 15.3 billion sticks of cigarettes. So, there’s a big gap. What it amounts to in terms of sales is about R4.625 billion that is unaccounted for. Could it be that TISA members are not paying the excise and VAT taxes on their volumes of cigarettes produced? Or, even worse, could it be an over-inflation of production volumes to demonstrate to shareholders that their operations are on the increase and at high levels, when in fact they are not?

All the foregoing tells a sad story: of how Project Honey Badger had once made a significant difference, only to lose traction once SARS came under attack. In the years when the South African government was faced with an economic downturn and tremendous pressure to provide increased services to the poor, such as funding disadvantaged students, the one place where this money could have been collected simply had disappeared down a black hole.

They lied to us

On Friday night, 22 June 2012, Annah Matlahohla (not her real name) was sitting on her bed in her corrugated-iron house in Alexandra township in Johannesburg, reading her Bible. Even though it was early, she was about to go to bed because the next day was going to be a big day: she had an interview for what promised to be a good job, much better than the one she already had.

In 2010 Matlahohla managed to find work in Linbro Park, an industrial area nearby Alex, where Gold Leaf Tobacco Corporation's main operations are based. It was a cleaning job, paying her just on the breadline, but it was permanent. She never missed a day's work at GLTC, even if she was ill. She was always on time and did her job to the best of her ability.

GLTC is among the oldest of the local tobacco manufacturers in the country, starting off in 2000 when the big brands still dominated the market. They were among the first to introduce newer, lesser-known cigarette brands such as Voyager, Savannah and Sahawi, first by importing cigarettes and, then in the same year, starting their own production plant.

Matlahohla had always had to manage her budget carefully. Some money had to go towards her taxi fare. The rest she spent on food for her children, their schooling and her electricity bill. There were never any Christmas or birthday presents or any luxuries: these were simply unaffordable. By the end of each month, like so many others in her position, the money was gone. But Matlahohla was a proud woman, and never asked for handouts. She lived according to the rules she set for her children and was an example to them. These conditions brought the family very close.

One evening, her eldest child, a daughter, noticed a change in Matlahohla's demeanour. 'What's wrong, Mommy? Why are you so quiet

tonight? Is there something the matter?' she asked. Her siblings, two brothers, looked at each other and then at their mother, also fearing bad news.

'No, my children. You mustn't worry. We must believe and trust in God,' she said. The children became insistent. 'But Mommy, why are you so quiet tonight? What is going on? Please tell us. We are worried.' Matlahohla smiled and looked at each of them. 'My children, a few days ago at work, at the tobacco factory, people came and left flyers advertising jobs. They told us that they were from a big company called Oasis Recruiting. They said they were going to open a new factory soon in Heidelberg and were looking for workers there. They wanted us to send our details to them by email,' she continued. 'They came there in fancy cars and carried business cards. They were very professional,' she said with admiration.

Matlahohla smiled. She told her children how she had had to spend extra money to travel by taxi to town, to visit an internet shop where she paid more money to people who helped her put together a CV. Again for an extra fee, they had emailed the CV to Oasis Recruiting. 'Yesterday I got a call from them to say I must come for an interview. The interview is tomorrow morning. My children, we must pray. We must hope that I can get this job and that God is good to us. Maybe, if I can get a better job, I might be able to buy you new school shoes,' Matlahohla said. She also told her kids how she had arranged with a friend to borrow a nice dress to wear for the interview the next day. 'Let us pray, my loved ones. Let us pray.'

The following morning was a flurry of activity in the household. Matlahohla was neatly dressed in the borrowed dress and the kids made a big fuss about how beautiful she looked. There were wishes, kisses and hugs, and then Matlahohla made her way to the taxi-rank to get to the interview. Maybe life for the Matlahohla family was about to change forever.

Late on Saturday afternoon, 23 June 2012, the three Matlahohla children were sitting outside their house in Alex, waiting for their mother to return. They could barely contain their excitement. Their mother was clever, hardworking and sure to get the job. Their lives were about to transform.

From afar, they saw their mother walking home. They looked at each other and tried to discover from her body language how the interview had gone. But she was still too far away to make anything out. Matlahohla walked slowly towards her home that day, very slowly. As she came closer, they

noticed that she had a tissue in her one hand, and was wiping her eyes every now and then.

They looked at each other and knew suddenly that something was wrong. They ran towards her, hugging her and letting her lean on them as they walked the last few metres to their house. Matlahohla was in tears, unable to get any words out. Finally, they were all inside and Matlahohla managed to compose herself. There was a long silence, and then she said, 'They lied to us ...'

That night, Matlahohla told her children that the interview which had promised so much hope for their future was just a sham. 'They wanted me to become an *impimpi* [a spy],' she said. 'They said to me I should stay at GLTC and still do my job there. Then they said they would pay me extra cash if I wrote down car registration numbers for them and spoke to people at the factory and asked them questions they would give me.'

She continued, 'Can you imagine? Do they have any conscience? They want me to become an *impimpi* at my workplace for another company that is competing with my bosses! How can people be so cruel?' The children looked at her with big eyes.

'Can you imagine if my bosses found out that I was an *impimpi*? They would fire me. What would I do then? I just had to say no to them and walk away.' Matlahohla sighed, straightened her back, and gave them a speech about doing the right thing, even when times are tough and people think they can cut corners. They had heard it all before and knew the lesson by heart. But they listened out of respect for their mother.

'We continue as before. We do our best. We carry on. We pray and believe. And we stay on the right road of life.'

The big boys come up with a new plan

It was around the time when SARS was in turmoil that the so-called ‘project management plan’ (or PMP) of BATSA and FSS was launched.¹³³ Suddenly there was space again for them to carry on with their dirty tricks. The pressure was off them and the Tobacco Task Team, and, instead, we at SARS were suddenly on the back foot. In a press statement of February 2016, FITA, the collective body of the small tobacco manufacturers, expressed ‘disappointment when the South African Revenue Service Sikhakhane report and Kroon report did not reflect any light on the shenanigans in the tobacco industry ... We have good reason to believe that certain former South African Revenue Service officials are in possession of material evidence in support of our inquiries.’¹³⁴ At the same time, even the new kids on the block, belonging to FITA, heaved a sigh of relief to see our backs. The pressure was off them too. One of them would later admit to me in conversation: ‘When you guys were out of the picture, it was a relief. You really had us. You really understood the game. We got away with it all. I can tell you this now because you are no longer there, but we got away with it. What happened at SARS suited us fine. From then on, we printed money.’¹³⁵

The project management plan ran full steam ahead from around mid-2014 onwards. There was at first a bit of anxiety among members of the Tobacco Task Team and the state intelligence operatives, worrying what the Sikhakhane panel and Inspector General of Intelligence’s investigations would expose. I received a few nervous calls around this time, everybody stating they wanted to ‘come clean’, but most adopted a wait-and-see approach. Their bets paid off, because once Tom Moyane took charge of SARS in September 2014, and after the purge there began, and when the Sikhakhane report didn’t reflect anything placing them at risk, they could relax and carry on as before. The

disruptions at SARS had taken a turn and become a political game, and they were off the hook.

Throughout 2015, Moyane had audit and consulting firm KPMG at SARS, sifting through millions of documents and data spanning over thirteen years, digging for any dirt on me, former SARS deputy commissioner Ivan Pillay, former Risk and Strategy group executive Pete Richer and an adviser, Yolisa Pikie. None of us were ever engaged during this process, which cost the taxpayer R23 million. Coincidentally, in 2015 BAT plc in the United Kingdom cancelled their seventeen-year relationship with audit firm PwC in favour of one with KPMG. Back in South Africa, KPMG was already auditors for BAT South Africa. When their farcical report leaked in October 2015, I wrote to KPMG and began to point out their dishonest and unethical conduct in respect of our matter. KPMG had failed to disclose to SARS their conflicted position as auditors for BAT South Africa and BAT plc and also that tobacco spook Belinda Walter had been a service provider to them from 2008 to April 2014. Their lawyers, who were interposed between KPMG and me when KPMG no longer wanted to hear from me, were Norton Rose Fulbright. They basically brushed me off for the remaining period of years when I tried to reason with KPMG.

Neither TISA nor BAT nor FSS nor the Tobacco Task Team could predict that their luck would run out from the end of 2015 and into 2016. In that latter year, Carnilinx launched a sensational application in the High Court that accused the big boys of industrial espionage and more; Daniel van der Westhuizen spilt the beans on them in an affidavit; Luis Pestana leaked thousands of internal FSS and BAT documents on social media; and a former BAT employee, Paul Hopkins, blew the whistle in a BBC documentary on alleged bribes paid by BAT to senior government officials in several East African countries. The established players hadn't planned for any of this.¹³⁶

Following Hopkins's disclosures, BAT plc in London took the first step. It appointed the international law firm Linklaters to investigate the claims made by Hopkins. Then, ten months after the start of the 'investigation', by which time the Hopkins news story had faded in public memory, BAT announced that it had cancelled the brief for Linklaters. A smaller law firm, Slaughter & May, took over the matter for BAT in December 2016.¹³⁷

In South Africa, Carnilinx's application to the Cape High Court, combined with Luis Pestana's public leaks and several subsequent media

reports, spurred BAT South Africa into action. First, they announced the appointment of none other than the law firm acting for their auditors KPMG, Norton Rose Fulbright, to conduct an ‘internal investigation’ into the allegations, despite the obvious conflicts of interest. Then BAT South Africa terminated its contract with FSS in October 2016. At the time, FSS boss Stephan Botha confirmed that its contract with BAT had been terminated. Soraya Zoueihid, former MD of BAT in France, took over as head of BAT South Africa, replacing Brian Finch, who had denied any wrongdoing.

Both the Slaughter & May and Norton Rose Fulbright ‘internal investigations’ dragged on, and their findings have yet to see daylight. In May 2018, when business magazine *Financial Mail* asked for sight of the reports, access was declined. When asked specifically what Norton Rose Fulbright had found in their ‘investigation’, BAT’s spokesperson said ‘it would be inappropriate’ to comment on matters ‘that are subject to either ongoing litigation or investigations’. *Financial Mail* even served a promotion of access to information application. Will the public ever see the reports? I very much doubt it.¹³⁸

With all of these developments, the big boys had to come up with a new plan. The playing fields had dramatically changed all of sudden. Where, once, only the mighty voice of TISA was given a public platform, the first sign of change was visible in May 2018 when not only TISA but also FITA and a range of state agencies presented to parliament’s Standing Committee on Finance on the illicit trade in tobacco. It was FITA that introduced a new angle to the debate. Their chairperson Sinenhlanhla Mnguni remarked to the committee that ‘billions of rand were being pilfered out of the economy by a group of companies through base erosion and profit-shifting schemes. He believed government should afford more attention to levelling the tobacco industry playing field to ensure small businesses also have a voice.’¹³⁹ I am told that TISA was rather surprised to find the FITA people present that day.

Obviously, the TISA members had to change track. I got to hear of it by chance when an email from TISA was passed on to me. This was clearly a summary of a bigger plan.¹⁴⁰ Firstly, said the email, TISA wanted the ‘illicit tobacco trade problem’ to receive the highest priority from Cabinet and government as a whole, before any ‘new or controversial legislation’ was to be considered. The plan then set out four key angles that TISA would pursue.

Firstly, they were going to ‘expose the high penetration of illicit cigarettes and the criminals behind it’. Secondly, they were going to ‘secure regional and national front page headlines’. Thirdly, they were going to ‘influence media to call for government action’. And lastly, but not least, they were going to ‘expose GLTC [Gold Leaf Tobacco Corporation] as the leading illicit trader without advertising their brands’.

Two days later, on 5 July 2018, a large press conference was called by TISA. The main speaker was the long-time TISA chairperson, François van der Merwe. Journalists from media houses across the country received invitations. Van der Merwe presented a report that TISA had commissioned. According to TISA’s press statement issued on the day of the conference: ‘The Ipsos Study is the most robust scientific analysis of the multi-billion-rand illegal cigarette market ever carried out in South Africa. It has been peer-reviewed and independently validated. It shows that the illegal market exploded since SARS ordered that investigations and the inspection of cigarette factories be stopped, under suspended Commissioner Tom Moyane. The report also found that just one manufacturer’s products, Gold Leaf Tobacco Corporation (GLTC), account for 75% of the illegal trade in the country. This is despite GLTC’s cigarettes being made in a local factory officially licensed by SARS.’ The loss to South African taxpayers from the illicit market was estimated at almost R600 million every month, or more than R7 billion in 2016.

TISA’s campaign had already got under way before the press conference began. On 27 June 2018, a website was published on the internet: www.takebackthetax.org. It basically takes you to a petition that reads: ‘I implore the South African Revenue Service, the Parliament of the Republic of South Africa and law enforcement agencies to act with urgency and take decisive steps in combating the trade of illegal cigarettes. By doing so we will stop the South African economy from losing R7 billion in potential tax revenue every year. I ask that the aforementioned parties conduct thorough investigations into claims of tax evasion by all cigarette manufacturers, to implement and enforce new laws to mitigate the negative impact that illegal cigarettes have on low-income communities.’

Soon enough, on 12 July 2018, a Twitter account @Takebackthetax with the campaign #takebackthetax popped up. The Twitter account appealed to the heartstrings of citizens, re-tweeting reports of corruption, shenanigans at

SARS and crime in general.

I guess the essence of the campaign was to ‘influence’ Cabinet and government departments to act, so it was rather telling for me that when the SARS Commission of Inquiry sat soon after, FITA’s chairperson, Mnguni, testified before it but TISA did not. Mnguni reiterated before the commission that losses to the government’s tax coffers not only stemmed from the illicit trade but included significant sums attributable to base erosion and profit-shifting schemes. He implored SARS to deal with non-compliance in taxes and duties holistically and to understand the various manifestations of tax risk along the entire value chain.

I had a chat with Mnguni sometime after his appearance. He told me that the evidence leaders at the commission informed him that TISA had declined to make any submission to the inquiry, or to appear before it, and said they would do so only if compelled. Clearly, they may have wanted to avoid having to answer certain possible questions, not least of all about the roles of their spies, Walter, Peega and some of the Tobacco Task Team, in the destruction of SARS.

At the same time, rather amazingly, the acting commissioner for SARS, Mark Kingon, managed to pull a rabbit out of the hat just days before Mnguni’s testimony before the commission of inquiry. On 15 August 2015, SARS entered into a collective agreement with FITA and TISA and Kingon was quoted as saying, ‘The two associations also committed to ensuring that their members fully comply with the relevant legislation at all times. Members who may be in contravention of the laws are encouraged to take corrective action through available avenues, including making full disclosure to SARS.’¹⁴¹ It seemed to me, from afar, that FITA had come of age, being treated as equal to TISA. I never thought I’d live to see the day when both Mnguni and Van der Merwe would stand side by side, smiling at each other.

TISA’s campaign didn’t get complete buy-in. Within days, media reports began to question the underlying basis of the Ipsos findings. Several people tried to lay their hands on the actual research report as opposed to the slideshow and summary presented by TISA at their press conference. TISA refused to hand it over or make it public.

Then claims started surfacing that the big boys were paying social media celebrities and media outlets in a suspected ploy to undermine government

efforts to curb tobacco use in South Africa. According to the Bhekisisa Centre for Health Journalism, TISA had apparently been funding a social media campaign and a number of adverts. Journalist Joan van Dyk accused TISA of not being very forthcoming about their campaign. 'If you're not disclosing that you have been paid to punt this campaign with money from the tobacco industry, that's a problem. They didn't want to tell us who else they are paying, and they have admitted to paying other people.' In September 2018, Bhekisisa got confirmation from TISA that it had paid the social activist and media personality Yusuf Abramjee to help promote the campaign. Abramjee explained his position somewhat by saying he had 'not been paid to endorse the project but I have received remuneration for promoting the campaign ads on social media, just like traditional media is paid to run the ads in newspapers ... and TV. I am a long-standing anti-crime activist. I support this campaign wholeheartedly as I believe illegal cigarettes have had a free run for too long and are costing our country much-needed taxes and jobs'¹⁴²

TISA hit back at Bhekisisa, saying they were willing to disclose the underlying data, 'which is extensive, technical and complete – to organisations who are qualified to analyse it and who will guarantee its confidentiality'.¹⁴³ Bhekisisa retorted by saying they didn't intend to analyse the data themselves, but instead wished to provide it to the University of Cape Town Professor Corné van Walbeek. TISA, unsurprisingly, declined the request. I understand why Van Walbeek isn't TISA's favourite academic. For years now, he has been delving into the tobacco industry and he's got a whole team of really bright students with various degrees and levels of qualifications and some really good thinkers working with him. For instance, a 2014 working paper co-authored by Van Walbeek said: 'The tobacco industry has an incentive to exaggerate the size of the illicit market.'¹⁴⁴

The Ipsos report came under heavy attack by the independent manufacturers. One of them, Gold Leaf, had been singled out in the report as the main culprit in local trade. 'The report also found that just one manufacturer's products, Gold Leaf Tobacco Corporation (GLTC), account for 75% of the illegal trade in the country. This is despite GLTC's cigarettes being made in a local factory officially licensed by SARS. Incredibly, one of GLTC's brands, RG, is now the second largest in South Africa overall, selling for an average of just R10.50 per pack. In the illegal tobacco trade, RG is followed by Savannah,

also from GLTC, Caesar from Best Tobacco Company, and Sharp, also from GLTC.’¹⁴⁵

In response, Gold Leaf was the first to counter the report. It issued a statement to the media saying, ‘We emphatically deny being involved in any tax evasive practices whatsoever and rubbish all allegations levelled against us in this regard. We have been constant contributors to the fiscus and take pride in our contribution to the country. We have, in the last 12 years, paid an amount of nearly R8.2 billion in excise duties alone.’¹⁴⁶

In September 2018, the Fair-Trade Independent Tobacco Association (FITA), of which Gold Leaf was by now a member, issued their own counter-statement to the Ipsos report. ‘FITA has noted with concern the various recent media exposés relating to allegations of multi-nationals and the Tobacco Institute of Southern Africa and their attempts to unduly influence public perceptions and government policy in relation to the tobacco industry. These follow in the wake of a public relations campaign launched by the Tobacco Institute of Southern Africa recently, wherein they sought to rely on a supposed study conducted by Ipsos and tried to vilify members of FITA whilst exaggerating the extent of the illicit trade. Not a word was said about massive sums of money draining from the fiscus to offshore havens that are attributable to Base Erosion and aggressive Profit Shifting practices.’¹⁴⁷

Experts on the subject also weighed in. Professor Corné van Walbeek commented, ‘The [Ipsos] survey is being misused by TISA members to come up with a narrative that says, “We are the good guys ... [We are] here to support the government in getting scoundrels in the dock. TISA’s arguing the South African Revenue Service must get off its backside ... and that we can buy nice things with the money we’ve lost. That touches a nerve [with the public].’¹⁴⁸ Why the claim of lost revenues amounting to R7 billion was flawed, he explained rather easily. ‘If the illegal tobacco sector were shut down, TISA says everyone would pay more taxes – but then fewer people would be able to afford to smoke, so the state would collect less than R7 billion in tobacco taxes.’¹⁴⁹

Despite the wide criticism of the Ipsos report, the new plan put out by TISA seemed to gain some traction. In October 2018, the large retail chain Spar was reported to have been told to stop stocking cigarettes supplied by the FITA group. Spar’s group marketing director, Mike Prentice, instructed all Spar

divisional managers to ensure that Spar franchisees stopped stocking cigarettes from companies implicated in the Ipsos report. Prentice later said his letter was meant to 'highlight that certain tobacco companies had recently been accused of tax evasion by other tobacco companies'. On 10 October 2018, Spar's managing director for the Western Cape and Namibia, Mario Santana, asked all Spar store owners to 'ensure that none of these brands are supported in your stores'. 'We can't be seen to be supporting these brands both from an ethical and a brand reputation point of view,' he said. The companies reported to have been affected by this instruction were by and large the new kids on the block: Amalgamated Tobacco Manufacturers, Best Tobacco, Carnilinx, Gold Leaf and Pacific. All that FITA's chairperson, Mnguni, could do about this was to issue a response to the media. He stated that Spar represented about 15 percent of the turnover of FITA members. 'Currently, the Spar Group is the only retailer in the country that we are aware of which has taken these drastic steps, based on an unsubstantiated and biased report.'¹⁵⁰

In December 2018, TISA brought out a second Ipsos report, adjusting their estimated loss of revenue to the fiscus from R7 billion to R8 billion per annum. This is a massive sum of money attributable to a handful of business entities and taxpayers. How accurate it is remains anybody's guess because the underlying data has yet to be released publicly, despite calls for it. If it is just half correct, then it requires some serious action by government to stop the bleeding – because, as things stand, every compliant taxpayer in the country is effectively subsidising the tax evaders.

The second report did not come without its own controversy. In late December 2018, I was contacted by a representative of FITA. He sought my advice on an issue. He related to me how FITA was approached by a whistleblower who feared for his and his family's life. It seems the whistleblower had spilt the beans on some alleged irregularities in the Ipsos research process and had sent several emails and documentary evidence to back up the allegations.

Apparently, Ipsos was not solely responsible for the reports but sub-contracted the research to another company called FGI. In turn, FGI didn't conduct the research directly either but in turn also sub-contracted parts of the work to individuals. In one case, the 'researcher' was paid a sum of R100 per

interview, which seems to indicate that much of the Ipsos report was based on interview-type data. But this sub-sub-contractor seems to have also sub-contracted to others, who were in turn ‘employed’ to conduct the interviews, but weren’t paid. Obviously, a dispute arose and, according to the email string, matters were escalated to TISA.¹⁵¹

Further emails showed that TISA then commissioned an ‘internal investigation’, but not a word of this was made public. One email from FGI to TISA confirmed the dispute and sought some sort of settlement with one of the people unhappy about not being paid. Ipsos got paid, FGI and some of these sub-contractors seem to have been paid, but others further down the line weren’t.

Astoundingly, mainly because the Ipsos report forms part of a campaign to get government to ‘take back the tax’, evidence in the emails suggests that some of the researchers weren’t even tax compliant. FITA issued a press statement in this regard on 13 December 2018. The very next day, the whistleblower sent an email to FITA, enquiring whether FITA had made public any of his personal details. ‘It seems the threats made against me are being carried out,’ emailed the informant. ‘I was informed tonight that my actions will have dire consequence for me apparently.’¹⁵²

My advice to the FITA representative who approached me was to ensure that the whistleblower and the family were safe, and to report the matter to the police without any delay and go public with the threats if need be.

It seems FITA did advise the whistleblower accordingly and made arrangements for private security for the family. I haven’t heard anything else about the matter since then, so I assume the safety measures had the desired effect.

The controversies around the Ipsos report continued. As late as March 2019, the FITA member Gold Leaf took up the fight with Abramjee personally in the High Court. According to Gold Leaf director Ebrahim Adamjee, Yusuf Abramjee had embarked on a smear campaign against his company under the guise of the #takebackthetax campaign. Gold Leaf sought an urgent order to prevent Abramjee from making statements that were ‘tarnishing its image’, including ‘that it is an illicit brand, does not pay taxes and is robbing the country’.

On 4 March 2019, Abramjee posted a social media message, ‘Gold Leaf

Tobacco Corp (Pty) Ltd has brought an urgent application in the North Gauteng High Court in an attempt to silence me. I am on record as saying they sell illegal cigarettes.’ Abramjee opposed the urgent interim order application and had a group of supporters in court wearing T-shirts displaying the #takebackthetax logo. According to the application, the interdict Gold Leaf sought was ‘pending the finalisation of a R50 million damages’ claim against Abramjee for alleged defamation, a case which has yet to go to court.¹⁵³ No court in South Africa has ever awarded such an amount for defamation and legal pundits criticised Gold Leaf for this action.

Gold Leaf lost the application on the basis that it was not urgent. Presiding Judge Letty Molopa ordered that Gold Leaf also pay the legal costs of Abramjee’s two legal counsel. I guess only time will tell how this dispute will ultimately be resolved.

Essentially, there are four problems I have with the TISA approach. Firstly, they’ve been crying wolf for far too long and exaggerating the extent of illicit trade, using all sorts of scaremongering and sloganeering. The reality is that in 2016 BAT’s market share took a bit of a knock, down from an estimated 81 percent in 2012 to about 74 percent, with JTISA sitting at about 9 percent and Philip Morris at about 8 percent. In contrast, Gold Leaf had been consistently growing, from a mere 3 percent market share in 2012 to 6 percent in 2016. For years Peter Stuyvesant was the biggest selling cigarette brand in South Africa. By 2018 it had been overtaken by Gold Leaf’s lead brand, RG. So too the other independents like Carnilinx, Best Tobacco and ATM have grown since setting up and have slowly but surely begun to establish themselves, each taking their own slice of a market that is shrinking overall. The tactics of TISA were starting to bite back at them.

Secondly, TISA and its members have yet to admit and address the true role and extent of the rogue intelligence networks and operations, which had been in existence since the early 2000s, and the capture of law enforcement officials to advance the commercial agendas of the big boys. The same goes for the role some of their own ‘agents’ have played in attacking and discrediting SARS and its officials. The dirty tricks of the tobacco wars in this country have their origins in the big boys’ club and not, as some may believe, in the independents. I believe I have sufficiently demonstrated this in this book. As things stand, TISA and its members seem to be pretending that they

knew nothing, heard nothing and did nothing. That's just plain disingenuousness.

Thirdly, the Ipsos report refers to 'MCT', or 'minimum collectable tax'. It then lists a range of cigarette brands, the majority belonging to the independents, which the research found to have been sold on the streets at below the MCT. This suggests that cigarettes sold below this value could not possibly have been taxed properly or at all. The conclusion is that these brands are therefore 'illicit'. However, on closer inspection of the 'below MCT' top 20 list, fairly high up is the Peter Stuyvesant brand, and lower down other brands such as Rothmans and Dunhill. If all the brands featured on this list are apparently illegal, how does TISA explain that three of BATSA's brands also feature? Why not make a fuss about them too?

The last issue I have with TISA's approach is that they only focus on losses in excise and associated VAT on sales of cigarettes. If indeed their campaign is to ensure that taxes lost are 'taken back', then it should apply to payroll taxes, personal income tax, corporate income tax and all other forms of taxation. Yet, the Ipsos research does not reflect on losses to the fiscus attributable to the big tobacco manufacturers in South Africa, nor does it consider forms of non-compliance across the entire value chain of the industry. We know, on the basis of BATSA's 2018 published financials, that it is in dispute with SARS for an amount of R2.01 billion owing in taxation. This represents almost a third of the estimated losses due to the illicit trade across all manufacturers. Instead of agitating about the mote in their competitors' eye, should the big boys not consider the beam in their own?

Further investigation? Sure

Sipho Kwela (not his real name) was born in 1984 in the town of Grootfontein in Namibia, then still known as South West Africa and under control of South Africa. A year after Kwela was born, the National Party white-minority government declared a state of emergency throughout the country, which enabled the security forces to detain people without trial, ban them and relocate them at their whim and pleasure.

Kwela's parents weren't politically active in the sense that they were underground operatives or struggle heroes. They participated in stay-aways and strikes, they attended community meetings and secretly supported SWAPO, but by and large they tried to stay out of trouble, preferring to look after the future of their children to the best of their abilities. They tried to keep Kwela and his siblings out of politics. Both his parents worked and they provided for the family. Grootfontein was a major hub for the South African military and many soldiers were based there. It was also situated along the major supply line for the army then engaged in a war along the border with Angola. There was a massive depot which housed all sorts of military trucks and vehicles. Almost daily, haulage trucks would travel into and out of the town, either delivering goods or human cargo or collecting deliveries.

As a young boy, Kwela would play with his friends in the open tracts of land next to the highway along which the big haulage trucks would drive. These behemoths, with their many wheels, shiny cabins and loud engines, fascinated Kwela. He dreamt of driving them one day.

In 2002 Kwela completed his schooling and obtained his extra-heavy driver's licence. Thanks to independence in Namibia and the advent of democracy in South Africa, these were boom years. More investment, open borders, better relations with neighbours and a thriving economy meant more

trade, more imports and exports, and this meant good news for extra-heavy truck drivers. In time Kwela relocated to South Africa where he got a job with a logistics company that had a fleet of trucks. At last, Kwela had achieved his dream. He was in his element behind the wheel of one of these trucks. It took supreme dexterity, concentration and hand-eye coordination to manoeuvre the vehicle, and he would often have to drive very long distances. Because these trips took several days, the trucks were equipped with small 'bedrooms' to sleep in when the driver pulled off the road for a rest. He especially loved the trips from South Africa, through Namibia and into Angola, because they would always allow him to stop over in his home town of Grootfontein and spend time with his family.

Companies like the one for which Kwela worked basically hire out their trucks, called 'horses', together with long trailers to businesses that need to ferry goods from one location to another within South Africa or beyond. The main contenders in this business are the companies that offered not only the best cost, but also the quickest delivery or collection time and other added services. These would, in some cases, include 'clearing and forwarding', when goods are imported or exported. Clearing and forwarding really entails the added service of preparing the necessary documents and filing these with the various customs agencies of each country through which the goods pass. This means, for instance, that if someone wants to export goods to Namibia, documents would have to be filed with the South African Revenue Service (SARS) as well as with the Namibian Revenue Authority (NRA), in advance. Once the truck arrives at the border post, the export is cleared on the exit side of South Africa for export and the same occurs on the other side for import. It becomes more complicated when goods leave South Africa for countries further north, in which case further documents are required such as road permits, removal in transit documents and so forth. Needless to say, the driver of the truck needs to understand the process and the documents.

Kwela had no trouble in learning how this worked. He would make sure to arrive at the depot to collect the 'horse and trailer', get the necessary customs documents and permits, go to the relevant address to collect the goods, and then be on his way. Upon arrival at the border post, he would go through the motions of presenting the documents to the customs officials, wait his turn, allow them to inspect the goods in the container if they chose to do so, and ultimately ensure that the container was delivered on time at the

relevant destination. He did this so many times that it became almost automatic for him.

But the procedure also worked on trust. When a driver of a haulage firm collects a container that has been packed by the client, it is all done on good faith and on the basis that you charge a fee for the service and will carry out the delivery in accordance with the contract. So, if the client asks you to collect a container full of cabbages from Mpumalanga and deliver this to Windhoek in Namibia, that's what you do. After all, you're just the driver. Other people check out the client, the trustworthiness of the transaction and the documents. That's their job. You collect and drive and deliver; they clear and forward the documents and collect the payment.

Far away, in the subtropical coastal city of Durban, a few men belonging to a private security company sat around a table discussing a plan presented by a client. They were all tough guys who had been part of the former apartheid regime's security forces. Their client, who expected them to deliver on the plan, was paying well. Given their ties to the old security structures, and their friendships with existing law enforcement officials, the plan wasn't going to be difficult to carry out. It needed a few essential things, though. One was the absolute reliance they were going to place on their pals in the police and civilian intelligence structures to see through their intended plan. The second was their dependence on these law enforcement contacts to make 'busts' or quickly become aware of such 'busts' and capitalise on them by getting the stories out into the media. These elements were key, because the plan was intended to create the perception in the minds of the public that cigarette and tobacco smuggling was pure evil and among the most serious criminal acts afflicting the country. It suited their law enforcement pals, who needed these kinds of 'puff pieces' in the media to demonstrate how well they were doing their job.

15 July 2014 was just another day for Kwela. He was on the road. He had been travelling for two days through Namibia, taking his obligatory break to rest and sleep, before continuing towards the Vioolsdrift post on the border between Namibia and South Africa. He had received his instructions to go to a client's address to collect a container of goods destined for the South African market. The clearing and forwarding people had done their work, and he had

been given the necessary papers. At the border post, he turned into the parking area designated by customs for trucks of the size he was driving and came to a stop. He reached over, took out his file of documents and walked over to the customs offices. On the Namibian side, all went well and he headed back to the truck and crossed over a stretch of no man's land into South Africa. Once again, he had to stop in a designated area, and basically repeat the process though now his goods were being treated as imports rather than exports. Whereas he was exporting the container from Namibia, the reverse applied on this side. All seemed fine, and the documents were processed at the usual speed.

As he was walking back to his truck, members of the police border unit came up to him. Kwela didn't mind, knowing what was to follow. The border police would, from time to time, make random checks of imported containers and vehicles, see whether the immigration laws had been complied with or sometimes confirm the details of the truck. The officers asked him to park the truck in the inspection area. They checked his documents and passport. They then asked him to open the back of the truck, the trailer, because they wished to inspect its contents. He complied again. As they started searching through the goods packed by the client, they came across some brown cardboard boxes. A police official opened one of them and took out a carton of cigarettes. This wasn't what Kwela had thought he had been transporting. He was as surprised as the officers. The police started opening more boxes and in total they discovered 20 boxes containing cartons of cigarettes.

16 July 2014 – 'Vioolsdrift border police in the Northern Cape have arrested a Namibian truck driver who was allegedly found in possession of contraband cigarettes with a value of R200,000. Police were doing a routine check on Tuesday, when the truck travelling from Namibia into South Africa was spotted. "We found over 20 boxes of illicit cigarettes, when police stopped the driver for a routine check," a police spokesperson told eNCA.¹⁵⁴ The boxes contained the Shasha cigarette brand. The 32-year-old truck driver was charged under the Customs and Excise Act and the Tobacco Products Control Act, said the spokesperson.'

Let me tell you what happened to Kwela. He was arrested on the spot and taken to the police holding cells. His personal details were taken down and a police docket opened. The truck was also detained and parked in a special

area. As for the boxes of cigarettes, they were all placed in one area, and a few police officials posed alongside the contraband for a photograph which accompanied the media article. The caption read: ‘Another big bust for the fight against massive organised crime!’

Kwela would have been afforded one telephone call, and hopefully someone on the other end would have answered. He would have called his employers in the hope that they’d get him out of the mess, or alternatively a relative and asked him or her to see what they could do. He would then have been ‘processed’, his personal details entered in a register, and he would have been taken to the holding cells. By law, he could have been held there for a maximum period of 24 hours after which he had to appear before a court of law. It was a Tuesday, so Kwela was lucky in a sense. If it had been a Friday, the ‘24-hour rule’ is extended to the Monday, meaning at least three nights in the cells.

Kwela would have spent the night in jail. It is possible that he may have been questioned about where he had collected the goods, and for whom they were destined. But my guess is that this was very unlikely. I say this because the police media statement contains nothing about following up on leads. No recorded arrests or convictions followed this ‘bust’. No kingpins or mafia bosses were arrested and charged. Kwela’s arrest was the highlight of this entire event. On Wednesday morning, he would have been taken to court and appeared before the magistrate. In most cases, the state’s prosecutors would have asked for a postponement of the case pending further investigations. Kwela would then have had to go back to the police cells. But he was lucky. Why? Because the media statement says: ‘His case was provisionally withdrawn in the Vioolsdrift Magistrate’s Court on Wednesday, for further investigation.’

Further investigation? Sure.

Conclusion

When I left SARS in early 2015, Project Honey Badger was culminating in 15 criminal cases against tobacco manufacturers and importers, which should have netted the fiscus R3 billion in the 2014/15 financial year.¹⁵⁵ These cases seem to have disappeared, and it is now also clear that the R3 billion was never collected. I have asked myself whether I would have handled the matter differently if I had known what was about to happen. My answer is no. I believed that as civil servants, we needed to do what our laws required of us, regardless of what and who we were up against. I genuinely believed that we were going to hold manufacturers across the board to account, that the truth would out, and that the bad people would face the consequences of their actions. I expected a rough ride, that's for sure. I knew we were up against big money, significant interests, influential people, and I expected pushback. But in my heart I believed that good would triumph over evil.

I most certainly underestimated the backlash that would follow. Belinda Walter's ultimate deceit was not something I could ever have predicted, because relationships don't always work out as one expects. That doesn't mean you have to destroy each other if things don't work out.

I completely miscalculated how many different enemies, camps, motives and agendas would overwhelm us at SARS following her allegations against me. I never considered that people would take the proverbial hammer to the piggy bank of our country. Instead, we were humiliated, discredited and attacked in the most brutal manner, hounded and chased out of SARS. Individuals, families, children and friendships suffered in the process. One of the most important state institutions in government was attacked and laid low. This has cost South Africans of all walks of life dearly.

Meanwhile, the real crooks in the tobacco world walked away scot-free.

They haven't faced a single investigation, nor a single prosecution, nothing.

In early 2017 I sought to engage with BAT and provide them with evidence of industrial espionage, racketeering, money-laundering, bribery, fraud and a host of other criminal offences that implicated the company. On 1 February of that year I attended a day-long meeting in the Cape Town offices of Norton Rose Fulbright, where two representatives of BATSA were present and two representatives of BAT plc, the managing director, Gareth Cooper, and their in-house solicitor, Sophie Cubbon, as well as representatives of the London-based law firm Slaughter & May. Here I presented them with examples of evidence I had of these offences, and asked that the matter be dealt with by them properly, professionally and responsibly. What I suggested was that the company appoint a forensic investigation and, if the full evidence I had in my possession was assessed and found to be true, those responsible in the company (and their agents) should be disciplined and reported to the relevant law enforcement agencies.¹⁵⁶ Since that meeting, I have not heard from them again.

The Judicial Commission of Inquiry into Tax Administration and Governance at SARS came to a close in early December 2018 when retired Judge Robert Nugent presented his final report to the Presidency. It was soon thereafter made public. Preceded by an interim report, the final report made several recommendations, most which I found rather unsurprising. 'Integrity and governance' had failed on a massive scale between 2014 and 2018, the inquiry found.¹⁵⁷

After the appointment of commissioner Tom Moyane in September 2014, some of his new 'plans' included the disbandment and dismantlement of the various capacities and units in the institution that focused on the cigarette and tobacco industry. The final report by the commission also highlighted the growth in illicit trade in cigarettes as one of the consequences of the institutional meltdown at SARS.¹⁵⁸ It then didn't come as much of a surprise that among the recommendations to the Presidency was the re-establishment of these capacities within the tax authority without delay. Moyane was fired the month before by President Ramaphosa on the basis of interim recommendations of the inquiry and had been fighting the matters in various courts ever since.

Around this same time, the government announced that it expected a

lower tax revenue for the end of the fiscal year, so low that it didn't match the normal projected GDP growth for the country. I imagine the taxman would have been keen to collect revenues where it was easiest to do so. I am not really holding my breath to see any speedy action to remedy all the defects, but I live in hope.

I have always publicly stated that I firmly believe that Belinda Walter's initial 'complaint', and the later 'rogue unit' media campaign, provided the perfect battering ram against SARS as an institution, weakening it to ultimately render it the victim of state capture on a much grander scale. Events revealed a few years later would suggest that I wasn't far off the mark.¹⁵⁹

What none of us knew at that time was that after several mysterious meetings between Tom Moyane and President Jacob Zuma and Vittorio Massone, the South African head of consultants Bain & Company – and almost a year prior to Zuma's appointment of Moyane as SARS boss, and well before Walter's 'complaint' – SARS was already a 'target' of a campaign by Bain to gain access to profitable business in the public sector.¹⁶⁰ Massone admitted under oath that he had met with Zuma on several occasions, and a further seven times with Moyane, before Bain's bid for a contract to 'restructure' the institution was sealed. It was found that 'Bain had planned in advance for the restructuring of SARS even before it had set foot in the organisation ... the Minister of Finance, and the Bid Evaluation Committee and Bid Adjudication Committee of SARS, were misled by non-disclosure, which could amount to fraud'. The commission also found that their tender process for the contract was a 'sham'. It recommended that the national director of the NPA should consider prosecutions in connection with the award of the Bain contracts. It further emerged from the inquiry that 'what occurred can fairly be described as a premeditated offensive against SARS, strategised by the local office of Bain & Company Inc. ... for Mr Moyane to seize SARS, each in pursuit of their own interests that were symbiotic, but not altogether the same'. Part of the plan included identifying persons at SARS to be 'neutralised': when one executive resigned there were some email exchanges of a celebratory tone.¹⁶¹

There is no doubt in my mind that Walter's 'complaint', the plans by Bain & Company and Moyane, and subsequent developments, including the so-called SARS 'panels' that have now been discredited, all combined to form

part of sinister plots to capture and weaken SARS. That there was a greater scheme unfolding which capitalised on the opportunity presented by Walter's 'complaint' is no longer in dispute. It suited the compromised Walter, the implicated Illicit Tobacco Task Team members, BAT plc, BATSA and TISA as much as it suited taxpayers involved in litigation with SARS, particularly those in the tobacco industry, and the political project to take over SARS. The process of state capture at SARS is really just a question of sequencing. It all started with the various role-players associated with the tobacco industry.

Walter's allegations (which morphed over time) laid the foundation on which to build a political campaign that sought in the end to take over SARS. I have no doubt that when she and I were dating she did have an attack of conscience and tried to a limited extent to expose the shenanigans in the cigarette industry and do the right thing. This is evident in what she shared with me at the time and what she exposed to the media. But I believe she was by then simply too compromised, couldn't tell me everything, and when our relationship ended, the consequences for her and others were probably just too ghastly to contemplate; she simply could never be completely honest with me or the journalists she engaged with. I do not believe she knew she was opening up such a massive front against SARS at first, but once the campaign had gained traction, she had no qualms in maintaining her stories, joining the fray and playing along with the others.

Somewhere within this nexus of players and events lay the concoction of the 'rogue unit' narrative. The various role-players may not have necessarily sat together in a smoky room in advance to lay out the exact plot in detail, but once Walter started things off, all the different protagonists began to operate in tandem. The proverbial planets had aligned in such a manner that each set of protagonists would ride the wave of attacks on SARS, one advancing and leading the others. SARS had to fall. And it did.

The revolving doors of ex-cop or ex-soldier or ex-spook turned tobacco spy turned whistleblower turned spook again will continue in my view. Many years ago, long before Paul Hopkins in Central and East Africa, and Michael Peega, Daniel van der Westhuizen and Belinda Walter in South Africa, had flipped and flopped their ways from one side of the industry to the other, depending on how the wind blew, two other similar characters had gone under oath to blow the whistle on the trade.

Back in 2002, one Petrus Casparus Snyders and Thomas Frederick Taylor decided to spill the beans on BAT. Taylor had once been a member of the police's Murder and Robbery Squad, before he left to go and work for a private firm known as AgriInspec until about 2000. It was there that Taylor met up with Snyders, and the two seemed to get along rather well. Snyders tells in an affidavit that, in 1999, he was approached by FSS founder Stephan Botha, who made him an offer. Botha apparently worked for a private investigative outfit known as Ockie Fourie & Associates. Basically, Botha's offer to Snyders was that they form a new PI firm. Snyders and Taylor then left AgriInspec and formed Snyders & Taylor, although Botha already held a share in an existing company known as Forensic Strategies & Solutions (Pty) Ltd, together with one Ernst Robbertse.

According to Snyders, FSS and Snyders & Taylor had what was referred to as an 'informal mutual agreement' to work together on cases. In February 2000, Snyders, Botha and Robbertse met with a certain Dev du Toit at the offices of BAT in Cape Town. Du Toit was a leading figure at BAT South Africa. At this meeting, BAT gave the men a countrywide contract that was apparently only verbally concluded and that could be cancelled without notice. From that point onwards, the men say, Snyders and company received their orders straight from BAT. On 15 March 2000, Snyders again found himself at a meeting in Johannesburg at BAT's offices, which was also allegedly attended by Botha, Du Toit and Bobby Locke, a security expert of BAT. At this meeting, they say, a briefing was given to all present, pointing out which competitors of BAT they should focus attention on. Snyders remarked that the brief wasn't focused on investigation only, but also involved obtaining 'important market-related' information. On this day, according to Snyders, Du Toit said in so many words that, when so ordered, they had to intercept commercial competitors' communications. Every time they did 'work' for BAT, they received a special code which had to reflect on their invoices before they could receive any payments. Orders apparently came directly from Du Toit, in some cases via Botha and in other cases from another BAT employee, former police officer Johann van Rensburg. Frequent meetings occurred at this venue or at another belonging to BAT in Industria.

Then, the affidavit states that on 22 May 2000, at one such meeting, it was Highway Hennie who was selected as 'target'. At the same time, those in attendance were supposedly told that BAT was cutting short its credit facility

with Highway Hennie's businesses. From that day, Snyders and company say that they began to spy on Highway Hennie. By July 2000, Snyders claimed, on the instructions of Botha, to have 'placed agents under cover' in his business, but soon thereafter, in August 2001, he was apparently informed that the BAT 'contract' was cancelled, and that Botha was to continue doing work for BAT. Snyders explained in detail in his affidavit that some of the work done for BAT included illegally tapping the telephone lines of subjects they selected. In one instance, he identified Highway Hennie's Phoebus Apollo as a 'target'. He told how, on at least three occasions, he had installed equipment to illegally intercept the telephone calls at the offices of Phoebus Apollo and Apollo Tobacco at the Rand Airport. The longest one of these devices was left to record calls, according to Snyders, was a period of two months. Snyders claims to have still been in possession of at least fifteen tapes (in those days digital recording devices weren't yet so easily available in the commercial market), which included conversations of Highway Hennie and many of his workers at the two businesses. Snyders also followed distributors and conducted surveillance on the businesses for up to two weeks at a time. Whatever information they managed to obtain in this manner, they handed to Botha, who in turn supposedly handed it to the headquarters of BAT, which was then still based in Stellenbosch in the Western Cape. Snyders tells an odd story, that, after his 'work' for BAT stopped, another FSS man, François Greyling, came to his offices one day, on the pretext that there was 'something wrong with their computers'. In the process of fixing this 'problem', according to Snyders, Greyling used the opportunity to delete all evidence and data he had collected.

Some of the old progress reports exposed by Snyders and Taylor make for fascinating reading. One tells of a 'Project Round Robin' and demonstrates the nature of the close relationships between these private spooks and police officials, in this case a Director Gouws and Superintendent Jacobs, who were part of the old police Border Unit. This contradicts Botha's later protestations that they only worked with law enforcement agencies on request, and that the planning document for 'Project Round Robin' was in fact compiled by these private spooks. The tone and content make it clear who directed the efforts: it was FSS. It was they that determined who were the 'syndicates' and who should be investigated and raided. All of this was of course based on the rogue intelligence gathered by the private spooks through their illegal interceptions

and weeks of surveillance, for which they were paid.

These were early days, but the later rogue intelligence networks that ultimately operated under the multi-agency Tobacco Task Team and FSS had their foundations in this time. Of course, nothing ever came of these revelations.

Both Snyders and Taylor used the same argument found in Belinda Walter's, Daniel van der Westhuizen's and Hopkins's affidavits and confessions. They all claimed to have 'realised', all of a sudden, for some inexplicable reason, that they had been 'duped' and 'used' by BAT. All sang the same refrain that whereas they had initially believed they were engaged in law enforcement work, investigating smuggling and illicit tobacco, over time they came to 'discover' that what they were doing was, in fact, unlawful and amounted to spying on and sabotage of the commercial competitors of BAT.

But they all took the money when times were good. Without fail, they all developed a conscience only after their dealings with BAT had come to an end, and usually over a dispute of payment or at the end of a lucrative contract or with the threat of exposure.

Old scams have been revived since then, without any doubt. In May 2018, the new kids, FITA, told a parliamentary committee of 'the discovery of illegitimate but sophisticated factories in Lesotho and Zimbabwe, counterfeiting FITA member brands then smuggling them into the country'.¹⁶²

It seems that as the size of the industry has shrunk, and as more brands have flooded the market, counterfeiting is back on the rise, and this time even the smaller players have become victims. I am not surprised to learn this. It was bound to happen. In my mind, our neighbouring countries are ideally placed to build illicit factories and smuggle the goods into the local market. I dug into one such case a bit, and found that GLTC (Gold Leaf Tobacco) had to bring a civil search-and-seizure warrant application before the High Court in Lesotho against Sun River International, Hong Da Soap and Hong Yun Investments on the grounds that they were counterfeiting their brands Savannah, RG and Sahawi. The litigation was still ongoing at the time of writing.

I have also long believed the tobacco manufacturing sector had become saturated and overcrowded. It was inevitable that counterfeiting would soon show its head again on an even bigger scale. My predictions seem to have

proved true. Ghost exports, round-tripping, unrecorded manufacturing and smuggling have undoubtedly increased.

JTISA seems to have been the first casualty when it announced the closure of its South African factory in Wadeville in 2016 due to 'operational inefficiencies and a declining market'.¹⁶³ Over eighty factory workers lost their jobs. Now, like Philip Morris SA, JTISA imports all its cigarettes into the country. The last remaining big player that still manufactures its own brands locally is BATSA.

As things stand at the time of writing, almost 40 percent of the cigarette trade – that's close to half of the now medium-sized pizza – is believed to be made up of illicit cigarettes, and there is no sign that this trend is slowing down. On the contrary, at this rate over half the market will soon be made up of illegal cigarettes.

There is no better demonstration of the effects of this to the industry as a whole than a statement issued by the Black Tobacco Farmers Association (BTAF) as I was busy finishing this book. They explained how the illegal market had 'exploded in recent years since the disgraced SARS commissioner Tom Moyane ordered that illegal factories stop being inspected'. Over ten thousand jobs in the provinces of Limpopo, North West, Eastern Cape and Mpumalanga were at threat. The BTAF demanded immediate government action to contain the scourge.¹⁶⁴

A last word on the so-called Illicit Tobacco Task Team and its spies. They busied themselves with nonsense and took their eye off the ball. Some of its members even became complicit in criminal offences and unethical behaviour. In my research I came across a slideshow of a presentation by their head, Brigadier Casper Jonker, at a TISA-sponsored conference on 25 November 2014.¹⁶⁵ I was speechless when I viewed it.

In his presentation, given under the Hawks logo, and entitled 'Southern Africa Collaborating in Combatting Illicit Trade in Tobacco – 25 Nov 2014', Jonker claimed 1,918 'interventions', whatever that meant, R429 million in seizures, 375 arrests and the destruction of tobacco to the value of R167 million. The level of analysis and nature of the numbers provided were meaningless and haphazard.

There was no acknowledgement that it was in fact SARS's work that had led to most of what Jonker laid claim to, and this despite the fact that SARS

had never been invited to be fully part of the task team. The presentation was not merely thin on statistics: it had virtually none.

The task team seem to have conducted meetings and workshops rather than anything else. On a slide headed 'Joint successes', Jonker listed 'International corroborative workshops' in Johannesburg, Turkey, the United Arab Emirates, Cape Town and various Interpol workshops as examples of the team's 'successes'. He also had the gall to claim as 'success' the arrest of Ayabatwa in the United Kingdom in 2001 as if this was news in 2014. Moreover, he claimed kudos for the shutting down of Mastermind Tobacco as if this was something to be celebrated in 2014. The same was true for closing down Westhouse and the cases against CEW Logistics and Tish Maritime.

There wasn't a single acknowledgement of the heavy lifting done by SARS officials in all of these cases. The Illicit Task Team were in fact a law unto themselves who achieved very little besides disturbing ongoing SARS cases and discrediting SARS officials. The latter was their ultimate success.

The extent of the deceit of some of the Tobacco Task Team members and their coterie of informants and spooks was laid bare when in January 2019 portions of an alleged 'report' by the Inspector General of Intelligence (IGI) were leaked to the public. The IGI inquiry dates to a time when especially Belinda Walter, along with a number of other persons associated with the State Security Agency (SSA) and the Tobacco Task Team, stood accused of undermining efforts by SARS.

Back in August 2014, the minister of state security, David Mahlobo, announced an IGI investigation. It was emphatically stated that the IGI would look into, among other issues, the allegations against Belinda Walter.¹⁶⁶ Mahlobo said in no uncertain terms: 'In the wake of weekend newspaper reports alleging improper conduct against persons reported to be associated with the State Security Agency, the minister of state security has requested the inspector-general of intelligence to conduct an investigation in terms of the Intelligence Services Oversight Act, Act 40 of 1994. The investigation will seek to establish the facts and get to the bottom of the allegations made about members of the State Security Agency.'

This never happened. The IGI seems to have changed its focus completely and, instead, appears to have looked predominantly at SARS. This, I would argue, was not within the purview of the IGI's statutory mandate or the stated

instruction of Mahlobo.

Be that as it may, I appeared before the IGI panel twice. My first appearance was rather cordial and I had the sense that the IGI team was genuinely interested in what I had to say. I relied on the publicly stated purpose of the IGI's investigation attributed to Mahlobo and on that basis prepared a submission. The panel listened attentively, and the entire discussion was recorded. I listed an initial 38 issues, which by agreement we reduced to 34 because some aspects overlapped. I also identified 64 persons of interest whom I believed they should consider interviewing. I restricted what I wished to testify to what I understood to be their mandate and legal scope. Several of these issues were linked to the tobacco trade in one way or another.

Things turned for the worse when I received a message afterwards that I should not try to 'dictate' what the IGI team must investigate. Firmly of the belief that they would still look into what I had presented to them, I sent a message back saying that I apologised if what I presented was misunderstood. My next appearance soon after was very short. It dawned on me then that none of the matters I had put to them would be investigated. I realised that somehow the tables had been turned and there was no longer any interest in my allegations, evidence or information which implicated a host of people, particularly those who worked with the tobacco industry. I was never to be asked questions, nor afforded sight of the final report. Inasmuch as they seem to have made 'findings', none were put to me to answer to or explain. Key people, I would come to discover later, weren't even called to be interviewed. Through my lawyers, I ensured that some evidence was formally delivered to the panel's offices. Ultimately, though, it seems to have been simply a repeat of the other 'panels' that some of us had to endure around this same time. The constant refrain in all of these 'panels' was: 'we don't want to hear your version of events, we aren't interested in what evidence you have, don't dictate to us, just keep quiet and we will decide what to do, and no, you won't be afforded a right of reply.'

Once I had sight of some of their alleged 'findings', it became apparent that the inquiry had swallowed, hook, line and sinker, the allegations of some of the members of the Tobacco Task Team, apparently codenamed 'Smoke'. Call me bitter, but I am just human. I couldn't believe what I read.

According to these 'findings', the Tobacco Task Team consisted of members of the Hawks, the police, the SSA and Financial Intelligence Centre,

along with a few pals from SARS with whom they liaised from time to time (unbeknown to me). Task Team boss Casper Jonker seems to have been a key witness, lamenting that I had instructed staff not to work with them, which was why, according to him, ‘relations had broken down’ between SARS and the law enforcement agencies. Burger also appears to have had much to say, including that a whistleblower’s affidavit dating back to 2000 had somehow contributed to the breakdown in relations with SARS in 2010. I found this astonishing, seeing that all agencies had collectively worked on that affidavit in 2000 with great success and that it had nothing to do with the tobacco industry. In fact, it was the National Prosecuting Authority that obtained this affidavit in the first place. This was the same whistleblower whom Jonker, Burger and Niemann had approached in early 2014 for ‘dirt’ on me. They wanted him to be their pal to provide ‘something’ with which to sink me, and now he was suddenly the bane of their existence.

Burger also seemed to be a big proponent of the claims of Mike Peega and his alleged ‘dossier’ containing unsubstantiated allegations about SARS and its officials. He apparently tried to pass this off as gospel to the IGI team. Burger’s sidekick, Madeleine Schlenther, also threw her bit into the mix. She allegedly related that while bugging phones, she ‘overheard’ me state to a small tobacco manufacturer that I was going to ‘help against BAT’. Of course, as was par for course, none of the SARS officials implicated by these ‘witnesses’ were afforded an opportunity to respond to the allegations.

The net effect of the inquiry seems to have been some kind of ‘report’ which recommended that former finance minister Pravin Gordhan, former SARS deputy commissioner Ivan Pillay and I be prosecuted for creating a small investigative unit at SARS. That I was not a founder member of the unit didn’t matter. These ‘findings’ are eminently discreditable on more counts than I care to mention here. It seems to have been produced at the height of the state capture days, and I suppose it played very much into that saga.

Though as big as a barn, the ‘report’ seems to have missed all that you have read in this book, and much more. There was no mention of the private spy networks, the bribery and money-laundering, the fraudulent search warrants, illegal entry of the premises of the tobacco players, the dictatorial role that some big boys played in shaping the Tobacco Task Team’s agenda; not even that BAT paid for the travel expenses of Burger to the UK, because, according to Walter, they had agreed in advance of his meeting with the IGI

team to withhold this fact. Nothing about the ‘moerse good team’ that considered itself so capable of ‘pushing’ the head of the SSA, the prosecuting authority or SARS ‘to do what we wanted them to do’. Not a word was said about ‘sinking the bitch and hurting her career’ nor anything about the ‘paper trail to confuse SARS’. There was no reflection on Fryer’s ominous warning in July 2014 about people wanting to ‘replace the leadership of SARS and Minister of Finance’. None of these issues appear to have seen the light of day in the report.

What had happened was simple. The entire mess was turned back at us at SARS, and what is known as a ‘dead cat strategy’ then unfolded. This is when people who are severely compromised turn the tables and make sensational and wild allegations to distract others and deflect from the evidence against them. Considering that these events unfolded in late 2014, they certainly confirm what I had stated all along: that certain members of the Tobacco Task Team, people associated with the tobacco industry, were indeed behind the initial attacks on SARS and me. The ‘rogue unit’ narrative, undeveloped as it may have been at this stage, clearly had its roots here. Once these people had opened the door to SARS, many others followed in their wake and kicked it wide open. Of that there can now be no doubt anymore.

I haven’t seen the complete report, but to the extent that I am aware of its ‘findings’, I shall conclude with a bland denial. It is all hocus-pocus. Had the IGI team afforded any of us a hearing or given us a right of reply, they would not have come to the conclusions they apparently offered.

In March 2019 an explosive presidential ‘high-level’ panel report on the inner workings of the SSA was made public. Chaired by the highly respected former cabinet minister Sydney Mufamadi, the key finding of the panel was ‘that there has been a serious politicisation and factionalisation of the intelligence community over the past decade or more, based on factions in the ruling party, resulting in an almost complete disregard for the Constitution, policy, legislation and other prescripts, and turning our civilian intelligence community into a private resource to serve the political and personal interests of particular individuals’.¹⁶⁷ In my mind, the facts set out in this book, to the extent that I have been legally able to do so, clearly demonstrate how certain SSA operatives disregarded the Constitution, policies, legislation and other prescripts and most certainly did so as a ‘private resource’ for some big tobacco players.

Another comment that drew my attention spoke to malpractice by a special operations unit: ‘Infiltrating and influencing the media in order, apparently, to counter bad publicity for the country, the then president and the SSA.’¹⁶⁸ The report is redacted and therefore rather bland on specifics and details. This made me wonder about the ‘rogue unit’ narrative that was so brutally and incessantly driven through the media over two years, one journalist attributing the stories to, among others, certain unnamed ‘intelligence officers’.

The panel’s report had this comment to make on information peddlers. ‘One concern that was brought to the Panel’s attention by a number of its interlocutors was the extent to which members of the Executive were able to be manipulated by information peddlers. Information peddlers have been a bane of the South African intelligence community since the dawn of democracy. These are people, often with an apartheid security background, who approach politicians and security services with apparently “juicy” information. They usually know well what these politicians and services want to believe and thus tailor their information to these needs. There have been numerous examples of this in the democratic years.’¹⁶⁹ This comment, too, made me wonder about the likes of Burger, Jonker, Walter, Peega and others who were so keen to advance anything and everything ‘juicy’ about SARS to the SSA and IGI, knowing it would be uncritically lapped up. I also thought of the so-called ‘dossiers’ – Broken Arrow, Snowman, Spider Web and the like. Nonsense as they were, they were certainly ‘juicy’ and ‘tailored’ to suit some people’s needs.

Bearing in mind the 34 incidents that I had reported to the office of the IGI, the panel report further highlighted what I consider to be something rather significant. ‘A question of concern to the Panel was to what extent the IGI had played a role in identifying and curbing the abuses that had occurred in recent years in the SSA.’ I firmly believe that had the IGI considered what I put to them back in 2014, and looked at the evidence we gave them, they might well have finally opened Pandora’s box in the tobacco industry.

Will tobacco companies and their employees and the various law enforcement and intelligence operatives that have been implicated ultimately be held accountable? I very much doubt this. There’s too much at stake: too much money, too much power, too many secrets held dear. In writing this book, I’ve

had to choose what I wanted to say, not only because of space limitations, but also because of the secrecy laws imposed upon me. But I believe I have put sufficient evidence forth which shows that there are no good guys in the industry. They're all questionable in one way or another. And so are their agents, spooks, spies, turncoats, informants and pals in the state law enforcement and intelligence agencies. Call it degrees of badness, if you like.

Having said this, though, I do have sympathy for the small, the weak and the bullied. I accept that the new kids on the block, the small independents, have their own sins to face up to, and I believe they should. There is no doubt in my mind that most of them have much to answer for. The Ipsos research has one solid argument: that cigarettes are being sold at below the cost of what a single pack should attract from excise duties and VAT. This tells a story, for sure. It just doesn't make commercial sense, and I have yet to hear a sound counterargument from the new boys on the block.

But this doesn't mean that the behemoths of the tobacco industry should get away with their sins, nor should their shadowy sidekicks. The multinational tobacco firms have a hell of a lot to answer for. Long gone are the days when, because you were a long-established multinational, with powerful auditors, spin doctors and law firms at your beck and call, you could expect to escape censure and do as you liked. South Africa's most recent history is a case in point. During the height of the 'state capture', big multinational companies, large law firms and famous auditing firms have all been found wanting. Companies once believed to be untouchable and untainted have been found seriously compromised.

In my view, the behemoths need to be held to a much higher standard than their smaller competitors. They have different scales of available resources, their nature and operations are larger, and the oversights and controls that guide their businesses are also different. The effects of their actions vary too in scale and nature. Yet, while some of them announced internal investigations after their wrongdoing was exposed, and some individual employees were dismissed, on the whole there has been no real recognition on their part of their true culpability.

Events unfolding in the past year or so have shown us that state capture wasn't limited to a single family or company – there were different 'crime families' so to speak, all intent on capturing civil servants and politicians to further their own interests and feed at the trough. There is no doubt in my

mind that certain members of the Tobacco Task Team were captured and did the bidding of some of the big boys, and I believe they should be exposed and held accountable. The truth must out, as they say.

As things stand now, life for them has mostly gone on, as before – business as usual. Meanwhile, the South African people are paying dearly for all their mess. It is surely now the responsibility of the state to apply its will to do what is needed if the tobacco industry is to be controlled and regulated in the interests of all, and not allowed free rein.

Appendix: Judge Frank Kroon's apology

In March 2019, I discovered that the so-called Kroon Advisory Board of 2015 had, in fact, reconsidered its statement that the erstwhile SARS investigative unit was 'unlawfully established'. It had come to the conclusion that this statement was wrong. It was interesting that, firstly, the board did not communicate this publicly. Secondly, while retired Judge Frank Kroon, who headed the board, must be commended for conceding this in 2018, the other board members have remained completely silent.

To Judge Kroon's credit, and following engagements with me in late 2018 and early 2019, he apologised to me and undertook to ensure that he would apologise to people whom I could recall were affected by the statement through a request via the Judicial Services Commission to SARS.

From: Kroon [mailto: [email address removed]]

Sent: Sunday, March 24, 2019 5:47 pm

To: [Senior State Law Adviser, Judicial Service Commission, Office of the Chief Justice]

Subject: Complaint: Mr JH van Loggerenberg/Judge F Kroon

Dear Ms [name removed]

Thank you for your email of 20 March 2019.

Please kindly confirm to Mr van Loggerenberg that the matter may be resolved on the basis set out by him. In particular, I confirm

(a) that my apology is as stated in the terms proposed by him;

[“I believe I have forthrightly acknowledged in the Nugent inquiry that, issues of legality aside, in retrospect a better course for the [SARS Advisory] Board would have been for [Johann van Loggerenberg] and others potentially

affected by the Board's public statement to have been able to have addressed it. I have expressed my regret to Minister Gordhan for the [SARS Advisory] Board concluding that the impugned unit was unlawfully set up. I extend that apology, also in respect of the comment in the press release that the Board had satisfied itself that members of the unit had acted unlawfully, to all those who may have been affected by the procedure adopted by the [SARS Advisory] Board and its conclusions.”]

(b) that it may be noted that his complaint against me is withdrawn.

I note that Mr van Loggerenberg is further agreeable to the procedure being adopted which I proposed earlier: that the delivery of the apology be by way of the JSC requesting the Acting SARS Commissioner, Mr Mark Kingon, to convey the apology to the persons who were affected by the SARS Advisory Board's media release (as per the list furnished by Mr van Loggerenberg), as well as to their families.

- 1. Mr Visvanathan (Ivan) Pillay (former SARS official)*
- 2. Mr Peter (Pete) Richer (former SARS official)*
- 3. Mr Eric (Jabu) Kwela (deceased)*
- 4. Ms Nkele (Nora) Pitsie (former SARS official)*
- 5. Mr Johan de Waal (current SARS official)*
- 6. Mr Anton Van't Wout (former SARS official)*
- 7. Mr Jappie Tshabalala (current SARS official)*
- 8. Mr Gilbert Gunn (former SARS official)*
- 9. Mr Michael (Mike) Peega (former SARS official)*
- 10. Ms Siobhan Wilson (former SARS official)*
- 11. Mr Kenneth (Kenny) Mphahlele (current SARS official)*
- 12. Mr Sipho Nkomo (former SARS official)*
- 13. Mr Andries Janse van Rensburg (former SARS official)*
- 14. Mr Pieter de Bod (former SARS official)*
- 15. Mr Fanie Bothma (current SARS official)*
- 16. Mr Charl Fourie (former SARS official)*
- 17. Mr Johannes Muller (current SARS official)*
- 18. Mr Keith Hector (former SARS official)*
- 19. Mr Eddie Kotze (current SARS official)*
- 20. Mr Helgard Lombard (current SARS official)*
- 21. Mr Itumuleng (Itu) Leeuw (current SARS official)*
- 22. Mr Danie le Roux (current SARS official)*
- 23. Mr Timothy (Tim) Mabaso (former SARS official)*
- 24. Mr Frans van Niekerk (current SARS official)*

- 25. Mr Erich Neethling (former SARS official)*
- 26. Mr Gerhard (Gerrit) Jute (current SARS official)*
- 27. Mr Johann van Loggerenberg (former SARS official)*
- 28. Mr Gene Ravele (former SARS official)*
- 29. The family members of all of the above persons]*

I shall be grateful if you would kindly convey my appreciation to the JSC and to Mr Kingon.

Kind regards

Judge F Kroon

Endnotes

Prologue

1.

Names and places in this chapter have been changed.

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Acknowledgements

Thank you to Gill Moodie of NB Publishers, who spurred me on to tell this story, had faith in it and believed that it had to be told. Thank you for putting up with the late edits and changes, and for guiding me throughout the process.

Many thanks to Erika Oosthuysen of NB Publishers, who first came up with the idea for this book and ultimately made it happen.

A special thank you to my editor, Russell Martin, who helped me weave the many complex threads together into what is hopefully a meaningful account of the tobacco wars in southern Africa.

I appreciate the patience and support of my family, who put up with the long hours needed to complete this work.

I must also acknowledge the tremendous support of former and current SARS colleagues, even though I cannot mention them all by name.

I would like to thank Willem de Klerk for his legal advice and guidance.

I would also like to acknowledge and thank Sikonathi Mantshantsha for the foreword.

I must also acknowledge the willingness of various players in the tobacco industry, many of whom feature in this book as *dramatis personae*. Your honesty, openness and willingness to engage during our sessions are greatly appreciated.

A special word of thanks to the human rights and political activists, the business people and legal practitioners who have stood by me (and others) over the years.

I also wish to again thank ‘Toby’ and ‘Mr K’ for helping me dispel the rogue unit narrative among senior government officials when needed, and ‘Mr M’ for his support throughout. As before, I’m sorry I couldn’t let you have sight of the manuscript, but I’ve acknowledged you, as you said you wanted to

be.

Lastly, many thanks to the countless South Africans who didn't believe the rogue unit narrative, and the many journalists and law enforcement and SARS officials who continue to do their work independently and in pursuit of the truth.

Summary

Warning. Smoking kills. It also corrupts law enforcement officials and eviscerates state institutions. It devours politicians, professionals, businesspeople and ordinary workers in the chase for big bucks and the battle for a slice of an ever-shrinking cigarette market.

Join one of South Africa's former tax sleuths, Johann van Loggerenberg, in a wild ride through the double-dealing world of tobacco's colourful characters and ruthless corporates. Meet the femme fatales, mavericks, mercenaries and grandmasters, and learn how the crime-busting unit led by Van Loggerenberg at SARS and its 'Project Honey Badger' became a victim of a war between industry players and a high-stakes political game driven by state capture.

This is the tale of a few good men and women who dared to try to hold to account a billion-dollar international industry rife with private spy networks, tax evasion, collusion and corruption – ultimately at great cost to themselves and South Africa.

About the Author

Johann van Loggerenberg is the author of *Death and Taxes* and co-author with Adrian Lackay of the bestselling *Rogue: The Inside Story of SARS's Elite Crime-busting Unit*. He joined SARS in 1998 and ultimately led some of its investigations units until he resigned in 2015 when he became a target with former SARS boss Ivan Pillay and others of various plots to capture and disable the revenue service. Today Van Loggerenberg is a private tax practitioner and advisory consultant.

Also by Johann van Loggerenberg

Rogue: The Inside Story of SARS's Elite Crime-Busting Unit with Adrian Lackay
Death and Taxes: How SARS made hitmen, drug dealers and tax dodgers pay their dues

Tafelberg,
an imprint of NB Publishers,
a division of Media24 Boeke (Pty) Ltd,
40 Heerengracht, Cape Town 8001
www.tafelberg.com

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Cover by polygram.co.za
E-book design by Wouter Reinders

Available in print:
First edition in 2019
ISBN: 978-0-624-08167-8

Epub edition:
First edition in 2019
ISBN: 978-0-624-08168-5 (epub)

Mobi edition:
First edition in 2019
ISBN: 978-0-624-08169-2 (mobi)

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